HANDGUN CONTROL LEGISLATION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIMINAL LAW

OF THE

COMMITTEE ON THE JUDICIARY
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NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

HANDGUN CONTROL LEGISLATION

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HANDGUN CONTROL LEGISLATION

THURSDAY, MARCH 4, 1982

U.S. Senate,
Subcommittee on Criminal Law,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m., in room 5110, Dirksen Senate Office Building, Senator Charles McC. Mathias, Jr. (chairman of the subcommittee) presiding.

Staff present: Michael Klipper, chief counsel; Grace Rienhoff, chief clerk; and Jack Falvey, staff assistant.

OPENING STATEMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Senator Mathias. The subcommittee will come to order.

I am sorry that I have been delayed by another meeting of the Rules Committee; but I am sure everyone here from the Standing Committee of the Senate will be glad to know we agreed on an aggregate budget for the year.

We are here today to discuss the issue of handgun control. Handgun violence has increased at an alarming rate over the past two decades. It has struck many of us personally and deeply—it has taken the lives not only of some of our national leaders, but also our friends and loved ones. Year after year, half of the murders in the United States are committed with handguns. In 1980, handguns took the lives of over 11,000 Americans, a rate of handgun murder that far outstrips that of any other Western nation.

Independent commissions on crime have repeatedly urged that we curb the use of handguns. Last year, the Attorney General's Task Force on Violent Crime, appointed by President Reagan, recommended several handgun control measures as part of its approach to curbing crime.

The National Commission on the Causes and Prevention of Violence, which issued its first report under the direction of Dr. Milton Eisenhower, has linked the proliferation of handguns to the Nation's violent crime problem. Lloyd Cutler, another former Director of the National Commission, has testified that its study:

> * * * Demonstrates conclusively—in my judgment perhaps more conclusively than the statistical evidence relating cigarette smoking to lung cancer and heart disease—that there is a dominant and predictable causal relationship between the number of handguns at large and the number of violent crimes committed in this country.

Yet, despite the fact that the criminal use of handguns seems to be at the core of our violent crime problem, the issue of handgun control has received little attention from Congress in recent years.

States and local governments have enacted handgun controls with increasing vigor. From San Francisco to the village of Morton Grove, Ill., to my home State of Maryland, local and State governments have pursued restrictions on handguns. But the attempted assassination of President Reagan last spring raised serious doubts about whether or not any attempt to regulate handguns can be effective unless it is national in scope. Handgun control laws on the books in the District of Columbia are not worth the paper they are printed on when anyone can buy a cheap gun in a Dallas pawnshop and bring it into the District.

Now, with violence mounting and the need for a national approach manifest, we in Congress must act. We can be passive no longer. We must look at the facts and debate the issues.

In these hearings, we will do that. The basic question we will examine throughout these hearings will be what changes, if any, should be made in the Gun Control Act of 1968 regarding the availability of handguns and penalties for their illegal use.

Attempts to control the criminal use of handguns have taken many forms, but recently bills have focused on the small, easily concealed, usually cheap handgun that has been the weapon used most often by criminals. These small handguns are commonly called Saturday night specials or Snubbies. Perhaps a more accurate term to use would be "nonsporting handguns," since recent legislation generally defines them according to the "sporting purposes" test that was devised under the 1968 act. Because of their inaccuracy, it is argued that they are useless for legitimate sporting pursuits.

Handgun control opponents argue that although these handguns have no sporting purpose, they are important to millions of American for self-protection, and that, therefore, only handguns that are particularly unsafe or unreliable should be banned. This debate raises the important question of whether or not we can define a class of handgun that should be outlawed because it poses a special danger to law-abiding citizens which outweighs any legitimate purpose.

The 1968 Gun Control Act, which bans the importation of nonsporting handguns, is the starting point for our inquiry on Federal handgun control. The purpose of the import ban in the 1968 act was to strike at the source of the small, cheaply made handgun, which was being produced almost exclusively abroad until that time. However, the import ban did not take the cheap handgun off the streets of America, as its proponents had hoped. Instead, foreign producers have routinely exported gun parts to be assembled here, and domestic production has skyrocketed.

In the first 3 years after the ban was imposed, domestic manufacture jumped from 60,000 in 1968 to 1 million in 1970, according to Treasury Department estimates. Obviously, a ban on foreign-produced nonsporting handguns serves little purpose if it can be circumvented by importing foreign parts, or if the same guns can be produced domestically.

These developments lead Senator Bayh, in 1972, to introduce S. 2507, which had the principal goal of banning the domestic sale and manufacture of handguns that did not meet the "sporting purposes" test devised under the 1968 act. Advocates of the Bayh bill felt that it could deal a crippling blow to handgun crime, especially in the long term, by eliminating all nonsporting handguns from the market. The proponents of S. 2507 obviously concluded that larger handguns, although useful for sport and for self-protection, would be less effective as crime weapons.

S. 2507 was reported unanimously by this committee, and passed by an overwhelming majority of the Senate, but died in the House. Although several bills to amend the 1968 Gun Control Act have been introduced since 1972, none has been passed by either body.

The handgun crime control bill of 1981, which will be discussed today by its sponsors, Chairman Rodino and Senator Kennedy, is the most recent of the attempts to enforce the purposes of the 1968 act and to extend effective regulation of handguns. The bill provides for a ban on the manufacture or sale of nonsporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun.

At these hearings, representatives of both positions will testify regarding the past and current efforts to amend the 1968 Gun Control Act. We must consider what measures, if any, can combat the criminal use of handguns, while protecting the legitimate, lawful use of firearms.

In a later hearing, we hope to have the views of law enforcement officers, mayors, pollsters, and scholars on this issue. Today, we welcome Chairman Rodino, Senator Kennedy, Prof. Philip Cook of Duke University, and Neal Knox of the National Rifle Association, to help us answer the questions we have raised about handguns and their role in the pressing problem of violent crime in America.

I hope that their insight will help us devise an informed, coherent, and effective approach to handgun control legislation, so that we can seriously attempt to curb the senseless handgun violence that makes our city streets unsafe by day as well as by night.

Our first witness, as I said, is Professor Cook. He is associate professor of public policy studies and economics at Duke University. He has written very extensively on firearms legislation regulation and is no stranger on Capitol Hill.

Professor Cook.

STATEMENT OF PHILIP J. COOK, ASSOCIATE PROFESSOR OF PUBLIC POLICY STUDIES AND ECONOMICS, DUKE UNIVERSITY, DURHAM, N.C.

Mr. COOK. Mr. Chairman, I appreciate this opportunity to testify on handgun control policy.

I have submitted a written statement to the subcommittee. With your permission, I would like to rewrite this statement before it is printed in order to include several topics that I did not have time to write into the current version of the statement.

Senator MATHIAS. Let me just say, the record will be open until our further hearing on this subject, and you will have some opportunity to file additional supplemental material.

Mr. COOK. Thank you.

I have been doing research on the role of firearms and violent crime for 7 years.

This research has convinced me that a gun control measure that was effective in reducing gun availability to criminals would be effective in reducing the intensity of violent crime. Robbery murders would be reduced. Serious assaults resulting from altercations would tend to be less lethal. Fewer law enforcement officers would be killed.

On the other hand, gun control measures that were effective in reducing gun availability to criminals probably would not cause a reduction in the nonfatal robbery rate or the rate of aggravated assault. It would only have the effect of reducing the fraction of such crimes that result in death.

That, it seems to me, is sufficient justification for considering some degree of control on the manufacture, transfer, and use of handguns.

The Gun Control Act of 1968 was the last major piece of legislation enacted by Congress in this area. The Gun Control Act attempted to do three important things. First, it attempted to regulate interstate transactions in firearms to a sufficient degree that the States were insulated from each other's policies; that is, some States could decide to impose relatively strict regulations on guns without being undercut by the lax regulations in other States. Second, the Gun Control Act banned the import of handguns that lacked a sporting purpose. Third, the Gun Control Act established several categories of people that were proscribed from buying or possessing firearms.

I would like to discuss each of these areas in light of current legislative proposals. My purpose is to suggest a set of priorities for congressional action in these three areas.

REGULATING INTERSTATE TRANSFERS

First and most important, to my mind, is the Federal responsibility for regulating interstate transfers of guns, particularly handguns. The States have been very active in the area of handgun control. For example, about 60 percent of the U.S. population live in States that currently require that handgun buyers be screened by law enforcement agencies. A number of States also require some sort of handgun registration. State legislatures continue to be active in these areas.

The Gun Control Act attempted to insulate States from each other by requiring that all interstate commercial transfers be channeled through dealers licensed by the Bureau of Alcohol, Tobacco and Firearms. These federally licensed dealers were established as gatekeepers for guns. They are obligated to follow all Federal, State, and local ordinances regarding gun transfers in conducting their business. Nonlicensed individuals are banned from buying guns by mail order or from buying guns out of State.

There is a widespread impression that this system for channeling interstate gun commerce has proven so leaky as to provide little protection for Massachusetts, New York, Washington, D.C., and other jurisdictions that have elected stringent measures to regulate guns.

BATF investigators have found clear patterns in the illict interstate flows of guns. Unsurprisingly, the lax control States, such as Virginia and Florida, are exporting to the strict control States.

How can this illict gun traffic be reduced? I believe that the Kennedy-Rodino bill has one answer in the case of handguns, if the regulations written in that bill were enforced effectively. The Kennedy-Rodino bill would limit dealers to selling a maximum of two handguns per year to a buyer, a measure which would cut off one of the major sources of handguns smuggled across State borders. Investigators have found a number of instances in which guns smuggled into New York or Boston were originating from dealers in lax control States who were selling large quantities of guns to the smuggler, usually legally.

The Kennedy-Rodino provision would stop that type of a commerce that supports interstate traffic. Another source of guns involved in illicit handgun traffic are dealers who sell to out-of-State customers who want a handgun for their own use.

Kennedy-Rodino would discourage dealers from knowingly selling to out-of-State residents by establishing the basis for stricter regulation of licensed dealers.

First, the increase in the license fee to $500 would greatly reduce the number of licensed dealers. The current number of dealers, over 180,000, is far too large to allow effective regulation, given the limited resources available for this purpose.

The second measure in the Kennedy-Rodino bill is the creation of civil liability for dealers who knowingly make illegal sales which result in someone's being injured. Civil liability in this area would be a highly effective regulating device, and seems entirely in accord with our theory of liability in other areas of regulation.

There are two other sources of guns involved in illicit interstate trafficking; namely, sales by nondealers, which may or may not be legal, depending on the circumstances, and sales by fences. I doubt that sales by nondealers constitute much of the interstate problem. Sales by fences of stolen guns may be more important, but are probably beyond the reach of a Federal regulatory effort. They must be stopped through traditional police undercover work.

My conclusion is that there are several important and probably worthwhile measures included in the Kennedy-Rodino bill that would help interdict the illicit interstate flow of handguns: Increased dealer license fees, limit on sales per customer, and civil liability for licensed dealers.

These are not radical measures, but they would help achieve the purpose. If the Federal Government does its part in stopping illicit interstate gun trafficking, the individual States will be free to choose the level of control that suits their needs and interests. Virginia could coexist with Washington, D.C., and New York. That result seems to me to be entirely congruent with the philosophy motivated by the New Federalism.

SATURDAY NIGHT SPECIALS

The second area of regulation is with respect to the Saturday night special. The Gun Control Act ban on the import of these guns proved ineffective due to the famous loophole in this ban; namely, the importation of parts for these handguns continued to be legal. The effect of the import embargo was simply to shift the location of assembly of these parts from Europe to the United States.

There have been a great many proposals since 1979 to close this loophole, either by stopping the importation of parts, or by stopping the domestic manufacture of all such guns. The Kennedy-Rodino bill is 1 of over 40 that have been introduced since 1969, that calls for a ban on manufacture and import of Saturday night specials.

The Kennedy-Rodino bill uses the sporting purposes test to define the class of handgun to be banned.

My own position, as explained in my written testimony, is that we should impose the ban on highly concealable guns, rather than on handguns that lack a sporting purpose.

The factoring criteria that were used to implement the sporting purposes test are, in my judgment, too broad. But a concealability test is more readily justified, and indeed is simply a logical extension of the State laws that prohibit carrying concealed weapons.

Almost every State places sharp restrictions on the place and manner in which guns can be carried. Indeed, 98 percent of the U.S. population lives in States that either ban carrying a concealed firearm entirely, or require that the individual obtain a special license before carrying a gun concealed. These licenses are usually issued on a restricted basis to those who have some special need.

The irony is that all of the States continue to sell snub-nosed handguns despite the fact that the only real purpose for obtaining such a gun is to carry it concealed and most people who buy them are not legally entitled to carry a concealed gun.

The alternative to a ban on manufacture is to limit the sale of such guns to those who are entitled to carry concealed guns. The Kennedy-Rodino bill, for example, carries an exemption for law enforcement officers.

A ban on highly concealable guns would get to the heart of the street crime problem. The Concentrated Urban Enforcement Project of ATF found that more than two-thirds of the handguns confiscated in the District of Columbia, Chicago, and Boston, had barrel lengths of less than 3 inches. These guns are inaccurate, and almost useless as sporting weapons, but convenient to criminals. That is why Congress should assign high priority to taking action in this area.

SCREENING HANDGUN BUYERS

The third area of regulation, which to my mind should have somewhat lower priority for congressional action, is intended to prevent certain categories of people from buying a gun. The Gun Control Act prohibits felons, illegal aliens, illicit drug users, and several other categories of people from buying or possessing a gun. It prohibits sales of handguns to those under age 21. There is no requirement in the Gun Control Act, however, that there be any background check on gun buyers. A police screening or licensing measure is probably necessary to enhance the effectiveness of these partial prohibitions.

The Kennedy-Rodino bill proposes a rather elaborate system for insuring that buyers in every State will have to have a criminal record check before buying a handgun. I have done an extensive evaluation of the proposed requirements with respect to their feasibility in cost, and would be glad to discuss my findings.

The reason I would assign somewhat lower priority to this area of regulation is that the States can, and to a considerable extent have already acted. There does not seem to be any pressing need for Federal action.

I would be delighted to elaborate on any of these points at your request.

Thank you.

Senator MATHIAS. Thank you very much, Professor Cook.

SATURDAY NIGHT SPECIALS

One of the problems, of course, is the importation of handgun parts. I recall when we enacted the '68 bill, we were looking at the importation of the cheap gun. But we now see a change, of course, and that is what brings us together today. I don't know whether you call it economic change or sociological change. There is a change of pattern of this particular commerce.

In 1972, the Senate approved legislation which would not only oppose the importation loophole in the 1968 act, but which would have outlawed the domestic sale or the actual physical delivery of the so-called Saturday night special.

As I recall—and I am subject to correction on this—this committee approved that unanimously, and we had a very wide spectrum of opinion represented in the membership of the committee in 1972. People who certainly would not under any definition of the term be considered gun control advocates, feel this was a necessary change in the law.

Now, it is interesting that under President Reagan the Attorney General's Task Force on Violent Crime has urged closing the loophole which would allow the admission of handgun parts from abroad for assembly. But the task force has made no recommendation to restrict the production of Saturday night specials in this country. The effect of the 1968 ban was an astronomical increase in the domestic production of the Saturday night specials.

Now, in light of this, what do you think would result if the task force recommendation regarding the parts loophole, in other words, the importation of parts from overseas, was closed, but no action was taken as far as the domestic manufacture is concerned?

Mr. COOK. I think that the main consequence would be to raise the price at which such guns were sold, since presumably the cost of manufacturing would increase slightly if domestic manufacturers were no longer able to import cheap parts for such guns.

One thing that a ban on the import of parts would not do would be to ban the domestic manufacturer of small handguns, regardless of the quality. We would continue to see high-quality handguns being produced with 2½-inch barrels on them. The only purpose of such handguns would be to carry them concealed.

Senator MATHIAS. Why did the Attorney General's task force take this approach? What do you think the rationale was in saying, "Yes, if they are foreign, they are bad. If they are domestic, they are less bad."

Mr. COOK. I think that there is a continuing confusion about what it is we are concerned about when we talk about Saturday night specials, and I can only guess that somehow the Commission shared in that confusion.

Unfortunately the commen conception of the Saturday night special has been overly complicated and unfocused; when people talk about Saturday night specials, they talk about cheap, small-caliber, easily concealed handguns, usually imported. They string out the adjectives without ever getting to what is really the central concern, what to my mind should be the central concern and that is simply the ease with which these guns can be slipped into a pocket or pocketbook and carried in public places for use in a robbery or assault or whatever the crime may be.

So I think that the Commission may have simply failed to think hard about what it is they were trying to accomplish, and my own thinking about this has lead me to conclude that what we are trying to accomplish is to make guns bulkier, make it less easy to carry guns in public places. I would like to elaborate on that for a minute.

I think there is a very solid and widely held view in this country that it is legitimate to hold handguns or any type of guns for the defense of the home. That same view is not held with respect to the legitimacy of carrying handguns for defense or any other purpose in public places. That is why the States have virtually been unanimous in banning the carrying of handguns in public places or requiring a very special license to be obtained before carrying them in public places.

So I think that given this consensus that we have, that carrying a gun in public places is something much different, much more objectionable than having it in the home for the purpose of protection of the home. I think that we can go forward confidently focusing on the highly concealed weapon and take effective action in that area.

Senator MATHIAS. Well, you mentioned an objective of the task force. Of course, you have to look at their recommendation in light of what we believe that objective to have been. As I see it, I think that the Reagan administration task force sought to develop a program dealing with the overall problem of violent crime. What could be done to reduce the level of violent crime? Now, if that is your objective, an antiviolence program, then would you go for a prohibition on domestic manufacture and sale of Saturday night specials, or as you just discussed it in terms of local legislation, would you go for a ban on concealable handguns?

Mr. COOK. I would support a ban on concealable handguns.

Senator MATHIAS. So the difference in your mind is not where it is made——

Mr. COOK. That is right.

Senator MATHIAS [continuing]. But the manner in which it can be used?

Mr. COOK. The factoring criteria include as a minimum condition that a handgun be of a minimum size, but then they go on to also require a number of features to make them more suitable for sporting purposes according to a complex point system. Points are awarded for a the target grip, sights, and a variety of other things that are supposed to make them suitable for target shooting and hunting. The point is, most people don't buy them for target shooting or hunting. They buy them for self-protection.

The public recognizes that is a legitimate purpose if it is for the defense of the home or business. For that reason, I don't think the sporting purposes test or factoring test as being appropriate in the way of defining the category of guns to be banned.

STATE AND LOCAL ORDINANCES

Senator **Mathias**. We are observing and hearing a good deal about New Federalism these days, new kind of relationship between the Federal Government and the States with some emphasis on initiatives that should be taken at State levels.

As I noted earlier, very little has been done about handgun control at the Federal level in recent years. The Senate bill of 1972 which did not find its way into the statute books is really the last significant action, and that was 10 years ago. Yet there is a considerable amount of activity at local levels.

How significant do you think this involvement of State and local levels is?

Mr. **Cook**. I think it is very significant. The public, through their legislatures or through citizen initiative actions, have been able to express their demand for gun control more effectively than they have been through Congress. And it seems to me as long as the Federal Government does its part in insulating the States from each other, that this is a fine way to proceed; that each State and State's constituency can make its own judgment about just how far it wants to go in the direction of control of handguns so that we can have the States of the old frontier, which generally have no restrictions on guns these days, coexisting with the District of Columbia and other States that see it appropriate to have quite stringent restrictions on handguns. That is what their respective public seems to want.

It is possible to arrange that kind of local option if the Federal Government takes steps to insulate the States from each other. There is a great deal of activity on the State level, and continues to be.

Senator **Mathias**. I have a report that the Task Force on Violent Crime stated that the plethora of State laws has made their enforcement ineffective, indicating a need for a Federal strategy that would provide consistency and uniformity across State boundaries.

No. 1, do you agree that the State and local laws are ineffective and, second, do you agree that there is a need for a Federal strategy?

Mr. **Cook**. As I said, I think there is a need for Federal strategy to insulate the States from each other. I don't see any particular need for there to be a Federal strategy to screen handgun buyers or to regulate place and manner with which handguns are going to be used. Just because there are a great many regulations on the books doesn't mean they are unenforceable. Each local jurisdictions only has to worry about its own ordinances and can ignore the 20,000-some ordinances existing in other jurisdictions. I don't understand the thrust of the argument that because there are a lot of regulations that differ from State to State, that there is something inherently unenforceable about them.

Now, with respect to the question of whether I think that the State ordinances are in fact effective, let me say first of all that there is no clear-cut evidence that they are effective, with one exception. That exception is the Bartley-Fox amendment in Massachusetts that imposed special requirements on carrying guns and a mandatory 1-year prison term for anyone convicted of carrying a gun illegally. That law was introduced with a great deal of publicity, made a big splash in Massachusetts, and had a sharp, discernible effect on the gun robbery rate, murder rate, and so forth.

Other ordinances which have not been so sharply implemented are difficult to evaluate. And so it is impossible on the one hand to say, as many people have said, that there is no evidence of those State or local ordinances having been effective. That is true.

On the other hand, I think there is really no evidence that they are ineffective. And when we are talking about evidence, we are talking about scientific evidence in this case; that is the sort of evidence that might come out of a laboratory experiment.

The problem is we cannot do laboratory experiments in evaluating gun control ordinances. For that reason, essentially it is very hard to present persuasive scientific evidence that changing the law in a particular jurisdiction makes a difference in terms of that jurisdiction's murder rate. So I as a scientist remain agnostic about the effectiveness of these laws in the sense that a jury has to assume innocence until guilt is proven.

I would say, however, that there is compelling logic and some descriptive evidence supporting the claim that State and local ordinances can make a difference, especially if they are supported by effective Federal action.

Senator MATHIAS. The short answer is you really think you need both?

Mr. COOK. Yes. I think we need to continue to have State action in the context of Federal restriction and regulation.

HANDGUN AVAILABILITY AND VIOLENT CRIME

Senator MATHIAS. Well, the last question I want to ask you is this. You have done a lot of research on the impact of reduced availability of handguns on the rate of violent crime.

Could you give us very briefly your findings on the likely impact that such a reduction would have upon homicide rates and upon violent crime?

Mr. COOK. Yes.

I think that it is not likely that a reduction in gun availability would influence the overall rate of violent crime since the most common violent crimes are aggravated assault and robbery. I think where the effect is going to be felt is in terms of criminal homicide and murder. There is every reason to expect from my results and the result of the other people that have studied this area that the effect of introducing a gun into a violent confrontation is to increase the likelihood that that confrontation will result in the death of the victim.

So it is not that such confrontations, robbery confrontations, assault confrontations, are more likely to occur because of the ready availability of guns; rather, those confrontations are more likely to result in the death of the victim as a result of widespread gun availability.

I have been able to document that, I think, quite convincingly in the case of robbery. There is a very large difference in the fraction of gun robberies that result in the victim's death and the fraction of other armed robberies that result in the victim's death, and there is persuasive evidence indicating that this difference is a result of the gun itself, not of the difference in motivation.

Frank Zimring's research indicates there is a similar pattern in the case of aggravated assault. For aggravated assaults, resulting from altercations and occurring with little planning and a lot of alcohol, the important issue is what weapon the assailant has in his hands at the time of the altercation. If it is a gun, the assault is more likely to result in the death of a victim. If it is a knife, the victim will be wounded. So that again, the short answer, I think, is that reducing gun availability will reduce robbery murder, reduce assault-related homicide, will also reduce the rate at which law enforcement officers are killed, since they are almost all killed with guns, and that it will have little effect on the overall robbery rate or aggravated assault rate.

Senator MATHIAS. You have indicated that you want to file a supplemental statement. We will keep the record open for that.

But at the same time, I am wondering if you would review the testimony of the National Rifle Association, which will be submitted today. We did not receive their statemant until—actually until this morning, so we had no opportunity to make it available to other witnesses or make it the basis for questioning.

But if you would review that and make such comment as you think appropriate——

Mr. COOK. I would be happy to.

Senator MATHIAS. Thank you very much, professor.

[The prepared statement of Mr. Cook follows:]

PREPARED STATEMENT OF PHILIP J. COOK

The Gun Control Act of 1968 was the last major piece of legislation enacted by Congress in this area. The Gun Control Act attempted to do three important things. First, it attempted to regulate interstate transactions in firearms to a sufficient degree that the states were insulated from each others policies. That is, some states could decide to impose relatively strict regulations on guns without being undercut by the lax regulation in other states.

Second, the Gun Control Act banned import of handguns that lacked a sporting purpose.

Third, the Gun Control Act established several categories of people that were proscribed from buying or possessing firearms.

I would like to discuss each of these areas in light of current legislative proposals. My purpose is to suggest a set of priorities for Congressional action in these three areas.

1. Regulating Interstate Transfers

First, and most important to my mind, is the federal responsibility for regulating interstate transfers of guns - particularly handguns.

The Gun Control Act of 1968, by banning mailorder gun sales and limiting interstate transfers to federally licensed dealers, provided each state with some degree of insulation from its neighbors. If this Act's regulations were enforced effectively, then Virginia's lax regulation of handgun commerce would not undercut Washington, D.C.'s policy of trying to gradually eliminate the private ownership of handguns. As we know, however, the current level of regulation and law enforcement has been insufficient to interdict the illegal flows of handguns across state lines, and states that elect stringent controls find that their criminals are being supplied by guns coming from states which lack such controls. If the states are to have *effective* control over who is entitled to possess a handgun, then

Congress must support a more vigorous regulation of interstate transfers.

Twenty-one states, including over 60 percent of the U.S. population, currently require that handgun purchasers apply to the police or actually obtain a permit or ID card from the police before acquiring the handgun. These screening systems are permissive--most adults are entitled to buy a handgun--and are designed to discourage youths, felons, illegal aliens, and other potentially dangerous people from obtaining a handgun. Twenty states, including 51 percent of the U.S. population, require that state and/or local public officials keep a permanent record of handgun transactions. Thus much of the U.S. public is currently protected by some sort of state handgun registration requirement and a police screening requirement. These are the most widespread and important types of state controls, and it is these that are undercut by the failure to prevent illegal interstate flows.

The current system for controlling interstate firearms commerce, created by the Gun Control Act, establishes the federally licensed gun dealers as the legal conduit for guns going in or out of each state; noone else is allowed to purchase a handgun out-of-state. The dealers are also required to keep permanent records of sales to aid in criminal investigations, and to report multiple sales to the Bureau of Alcohol, Tobacco, and Firearms (BATF). A major problem with this system in practice has been that the resources of the Bureau have not been adequate to effectively monitor the activities of the 185,000 existing dealers, investigate license applicants, and follow up on information regarding suspicious sales. Several studies have indicated that a large fraction of licensed dealers are not in fact in compliance with the terms of the Gun Control Act.

The Kennedy-Rodino Bill (S974) contains a number of provisions for strengthening regulation of federally licensed dealers and reducing the illegal interstate flow of handguns. Increasing the annual license fee from $10 to $500 would greatly reduce the number of licensed handgun dealers, thus allowing BATF agents to regulate those who were licensed more closely. The limit of two handguns per customer per year would help stop the multiple purchases that apparently are the origin for many of the illegal shipments going into strict control states. The registration and civil liability provisions would also help to reduce illegal interstate flows. It should be noted, however, that no regulatory strategy is going to be very effective in the absence of a sufficient commitment of funds to the regulatory agency.

To summarize, let me restate my main points. There is very widespread popular support for adopting moderate handgun controls of a sort closely analogous to the regulatory requirements imposed on cars and drivers. This popular support has been translated into legislation requiring police screening of handgun buyers in 21 states containing 60 percent of the U.S. population. The effectiveness of these state provisions is undercut by the illegal inflow of black market handguns originating in states that do not require police checks. States cannot have effective control over who acquires handguns unless the federal government creates and enforces effective regulation of interstate commerce. Establishing this regulatory environment, in my judgment, is the minimum supportable role for the federal government in the area of handgun control.

2. The Saturday Night Special

A major issue in the gun control policy debate concerns the feasibility of reducing the harmful consequences of gun availability without serious infringement on legitimate uses. For example, most states have adopted much more stringent regulation for concealed weapons that for possession under other circumstances, because of legislators' belief that carrying concealed weapons contributes a great deal to the violent crime problem but very little to the average gun owners' utility. A second example of the balance between utility and harm are federal and state laws that prohibit young people and those with felony records from owning guns. These laws spring from the belief that such people constitute only a small fraction of the population but commit a disproportionately large fraction of the violent crimes. Similarly, the campaign to ban the "Saturday Night Special" is based upon the belief that the small, cheap handguns which are frequently used in crime are of little value to non-criminals.

The 1968 Gun Control Act included a provision banning the importation of handguns not suitable for "sporting puposes." One consequence of this provision is that it resulted in the development of an operational definition for the "Saturday Night Special" based on an administrative ruling adopting certain "factoring criteria." These criteria establish two requirements. First, they require that imported handguns meet minimum standards on safety and size. Second, they require that a handgun achieve a minimum total score on a rating system that awards points on the basis of size, quality of construction, calibre, safety features, and miscellaneous equipment.

The inclusion of the calibre measure is difficult to justify since the sole objective of the legislation was ostensibly to embargo handguns that were not suitable for sporting purposes. It is not obvious, for example, why a .22 calibre pistol is less suitable for target shooting than a .32 calibre weapon. The concern with barrel length, quality of construction, and safety could be justified as relevant to sporting use, though even these criteria constitute a highly subjective interpretation of what is required for target shooting or hunting. In any event, the main effect (presumably unintended) of this regulation has been to promote the development of large scale domestic production of cheap handguns.

Many bills introduced in Congress since 1968 have proposed that the factoring criteria, or some similar set of restrictions, be extended to the domestic manufacture and sale of handguns. If adopted, these proposals would, according to an estimate prepared by the Bureau of Alcohol, Tobacco and Firearms have a dramatic impact: 54 percent of the handguns manufactured in the United States in 1974 would have failed the factoring criteria test, though it is possible that some models could be modified to pass this test with little additional cost.

The factoring criteria are flawed as a standard by which to distinguish "good" from "bad" handguns. The Gun Control Act explicitly recognized that sporting uses were not the only legitimate purposes for acquiring and using a handgun:

> [I]t is not the purpose of this title to place any undue or unnecessary Federal restrictions on handguns on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity....

To my mind, a more appropriate definition of this objectionable class of handguns would be solely in terms of size and weight--i.e., concealabilty. Targetting special restrictions on concealable handguns, rather than on handguns that fail the sporting purposes tests, has a number of advantages. The most notable advantage is that "concealability" has a direct, logical relationship to the primary objective of reducing criminal use of handguns as much as possible without imposing undue restrictions on law-abiding gun owners.

Most states have stringent ordinances regulating the carrying of concealed weapons. These statutes prohibit civilians from carrying concealed weapons or require them to obtain a special license that is issued on a restrictive basis. The National Firearms Act effectively banned shotguns and rifles that have been shortened to enhance concealability. The public concern about concealed weapons upon which these laws are based reflects a belief that few people have a legitimate reason to carry a concealed weapon. Not everyone who carries a concealed weapon intends to commit robbery or assault, of course; most people probably do so for self protection. But while the public acknowledges the individual's right to use firearms to protect home and business, the use of firearms for protection in a public place has much less legitimacy. Too often a gun that is being carried primarily for self protection ends up being used in a felonious assault on other crime.

There is good evidence that short barrelled, readily concealable handguns constitute the bulk of the handgun crime problem. The Bureau of Alcohol, Tobacco, and Firearms (BATF) has published several studies of guns confiscated by the police. The most informative of these studies was conducted in conjunction with Operation Concentrated Urban Enforcement (CUE). CUE was launched in the Standard Metropolitan Statistical Areas of Boston, Chicago, and Washington, D.C. in 1976, with the objective of demonstrating the effectiveness of concentrated efforts to interdict illegal transactions in guns. The one-year evaluation includes a statistical breakdown of all handguns confiscated by the police in these cities. Unlike data compiled in other studies, the CUE data are useful because the results are tabulated by source, and in particular distinguish between crime and related guns and others.

TABLE I

HANDGUNS CONFISCATED BY POLICE IN THREE CITIES, 2/76 - 5/77

(Percentage with barrel length less than 3")

	District of Columbia	Chicago	Boston
Homicide Handguns	67% (322)	73% (364)	61% (79)
Robbery Handguns	65% (280)	72% (533)	60% (87)
Assault Handguns	69% (582)	76% (2049)	76% (111)

Note: The number of handguns on which each percentage is based is given in parentheses.

Source: Bureau of Alcohol, Tobacco, & Firearms, U.S. Dep't Jus., Concentrated Urban Enforcement: *An Analysis of the Initial Year of Operation CUE in the Cities of Washington, D.C., Boston, MA, Chicago, IL* at [illegible]

The principal finding of interest is the preponderance of small handguns with a barrel length of three inches or less used for violent crime. More than two-thirds of the handguns in each violent crime category had this characteristic. Highly concealable handguns prodominate in violent crime. To ascertain whether the proportion of small handguns that are used in violent crime exceeds the proportion of large handguns so used in these cities requires data on the size distribution of all handguns "in circulation" in these cities. Such baseline data are not available. However, it is very unlikely that two-thirds of all handguns in these cities have a barrel length of three inches or less. By way of comparison, less than half of the handguns manufactured or imported in 1974 had barrels this short.

A ban on highly concealable handguns is a logical component of a general policy of "getting the guns off the street" in order to reduce violent crime in public places. Evidence that such a policy can be effective in reducing criminal homicide and robbery can be inferred from the well-documented effects of the Bartley-Fox Amendment in Massachusetts. This Amendment strengthened criminal penalties for carrying firearms illegally. Its highly publicized implementation in April, 1975, was followed by large reductions in gun related crime, reductions that can reasonably be attributed to the deterrent value of the new law. Working towards the elimination of small, highly concealable handguns would also discourage people from going armed, and facilitate the detection and apprehension of those who do choose to go armed by carrying a bulky handgun.

My argument in a nutshell is this: The only important use of small handguns is carrying concealed. Almost all states have placed severe restrictions on carrying concealed, on the grounds that this use of a gun supports serious violent crime in public places. It is simply illogical to permit the sale of highly concealable handguns to the vast majority of the public that is not entitled to carry a concealed weapon. Restricting the manufacture and sale of such weapons will help get guns off the streets. The result will be to save lives and reduce gun related crime.

3. Federal Regulation of Intrastate Transfers

The third area of regulation, which to my mind should have somewhat lower priority for Congressional action, is intended to prevent certain categories of people from buying a gun. The Gun Control Act prohibits felons, illegal aliens, illicit drug users, and several other categories of people from buying or possessing a gun. It prohibits sales of handguns to those under age 21. There is no requirement in the Gun Control Act, however, that there be any background check on gun buyers. A police screening or licensing measure is probably necessary to enhance the effectiveness of these partial prohibitions.

The reason I would assign somewhat lower priority to this area of federal regulation is that the states can, and to a considerable extent, have already acted to impose a police screening requirement. There does not seem to be any pressing need for federal action.

In sum, I have argued that Congress should devote highest priority to establishing effective controls over interstate commerce in firearms, and to establishing appropriate limits on the types of firearms that may be manufactured or imported for use by the public. The individual states cannot act effectively in these areas. If the federal government does establish an effective system for controlling interstate transfers, then each individual state will be able to choose the extent to which intrastate transfers will be regulated, and the extent to which the "place and manner" of gun use will be legally restricted. What I am proposing, then, is Congressional recognition of the natural division of responsibility between federal and state governments in the area of gun control.

Even the rather limited role I have assigned to the federal government is objectionable to those who view controlling weapons as an intrinsically ineffective approach to dealing with violent crime. There are two important arguments in this regard, propounded by the National Rifle Association and others who oppose any sort of gun control. The most extreme argument is that the types of weapons available to violent criminals have no influence on the homicide rate: "Guns don't kill people; people kill people". This extreme claim can be rejected with great confidence. Guns can be used to kill quickly, at a distance, with relatively little determination, personal involvement, or risk of effective counterattack by the victim. As a result, assaults and robberies committed with guns as much more deadly than those committed with other commonly available weapons. In violent crime, as in warfare, the type of weapon does matter. A program that was effective in reducing the availability of guns to violence-prone people would reduce the homicide rate: robbery murders would be reduced; serious assaults resulting from altercations would be less lethal; fewer law enforcement officers and public officials would be assasinated.

The second argument propounded by those who oppose any sort of regulation of firearm's commerce is that such regulations are ineffective in reducing gun availability to criminals, who, it is asserted, can readily steal guns or buy them on the black market. I would agree that a delinquent youth or felon who was determined to obtain a gun could eventually do so, given sufficient time, effort, and money, even if living a jurisdiction with stringent controls on gun commerce . However, I suspect that most delinquents who commit occasional robberies or assaults are not very determined or persistent about obtaining a gun - indeed, the great majority of these crimes are committed with knives or other weapons, not guns, despite the evident superiority of a gun as a tool in such crimes. Thus I believe that it is quite plausible that even fairly modest changes in the price and accessibility of black market guns would reduce the fraction of robberies and assaults involving guns in a jurisdiction.

My argument would be greatly strengthened by a demonstration that some of the recently enacted state gun control measures have been effective in reducing gun use in violent crime. Unfortunately, such evidence is lacking, except in the case of the Massachusetts Bartley-Fox Amendment (discussed above). Evaluations of the impact of other gun control measures (such as Washington, D.C.'s ban on handgun purchases) have not generated statistical "proof" of their effectiveness. But neither do these evaluations prove that these measures are ineffective. It is simply very difficult for statisticians to make a reliable measurement of the effect of such legal interventions, for a variety of reasons including the poor quality of the violent crime data and the fact that the determinants of variations in violent crime rates are poorly understood.

Government has adopted regulatory policies in many areas in the absence of scientific proof of the efficacy of these policies. The case for gun control, for example, is no weaker than the case for regulating cars and drivers through state licensing and registration systems. There is no proof that there are fewer auto fatalities as a result of "auto control", but there is a reasonable presumption that these regulatory systems have some effect. So it is with moderate gun control policies.

As an academic researcher, I would be the first to assert that more research is needed in this area. But Congress does not have the luxury of waiting for five or ten years, when the evidence may be more conclusive. I believe that the preponderance of the evidence favors Congressional action of the sort that I have outlined above.

Senator **Mathias**. The committee is now privileged to have an unusual experience, the distinguished chairman of the House Judiciary Committee and a distinguished member of the Senate Judiciary Committee who wish to testify as a panel.

Is that right?

We are happy to welcome you both here.

How do you wish to proceed?

Mr. **Rodino**. You are the chairman.

Senator **Mathias**. I am giving you the option.

We will exercise camaraderie toward our friend in the House and ask Chairman Rodino to start.

STATEMENT OF HON. PETER W. RODINO, JR., CHAIRMAN, JUDICIARY COMMITTEE, U.S. HOUSE OF REPRESENTATIVES

Mr. **Rodino**. Thank you very much, Mr. Chairman.

First of all, I must say I am delighted to be here with you as chairman of this important committee considering the important legislation that Senator Kennedy and I have cosponsored; and I am delighted, of course, to be here testifying with the former chairman of the Judiciary Committee and a man who has distinguished himself by fighting this battle along with me and many others, to have the Congress of the United States enact what we believe is sensible, reasonable gun management legislation. And I want to thank you, Senator Mathias, for convening this hearing today.

And I want to express my gratitude to you, Senator Kennedy, and to our other colleagues for their longstanding support of our efforts to enact modest and sensible handgun legislation.

In the course of the debate, I hope that we can reach what Learned Hand called a "tolerable accommodation" of conflicting interests. For, in the end, I think there is no conflict at all over one interest we hold in common: a more peaceful, less violent, society.

As we all know, the current Federal handgun law is not adequate. That became evident soon after we enacted it in 1968, in the aftermath of the murders of Martin Luther King, Jr., and Robert Kennedy.

The law prohibits the sale of firearms to convicted criminals, drug addicts, the insane, or the mentally incompetent. But it virtually relies on persons in these classes to identify themselves as such. There is no way to determine if the buyer is telling the truth.

The law bans the importation of Saturday night specials, cheap, easily concealable weapons that have no purpose but to kill or maim. But it allows the parts of this handgun to be imported, assembled here and sold.

Since 1968, there have been several attempts to close these loopholes through which criminals easily sneak. Each effort ignited vehement debate.

We tried, and failed, in 1972, after the shooting of Governor Wallace. We tried, and failed, in 1974, after the shooting of Senator Stennis. We tried, and failed, in 1976, after two attempts to kill President Ford. Now we are back, trying again, after the shooting of President Reagan, the slaying of John Lennon, the killings of Allard Lowenstein and Michael Halberstam.

But it is not only the powerful and the famous we seek to protect. More than 10,000 persons have been dying each year in the handgun violence that makes many of our streets corridors of terror. Violence and bloodshed are transforming our neighborhoods into battlegrounds, where law-abiding citizens live in fear, imprisoned in their own homes behind deadbolt locks and window bars and, yes, with guns under their pillows.

There are some 50 million handguns in circulation in this country. About 2 million more are added each year.

I would like to outline briefly what the Kennedy-Rodino bill would do to keep handguns from the criminal and the incompetent. And, just as important, I want to state what it will not do.

The main features of the bill briefly are these:

One: A total ban on Saturday night specials;

Two: A mandatory minimum sentence for anyone using or carrying a gun in the commission of a felony, 2 years for a first offense, 5 years for subsequent ones;

Three: A 21-day waiting period before the purchase of a handgun to allow the FBI or local police time to verify the eligibility of the purchaser.

In addition, it would ban the sale of handguns by pawnbrokers; increase the license fees for the handgun industry; require better recordkeeping; require that the theft or loss of a handgun be reported; require the transfer of a gun through a dealer; and control multiple purchases of handguns.

There is no question that Saturday night specials—a weapon disdained by hunters, sportsmen, and collectors—are a major crime problem. Data from the U.S. International Trade Commission indicate that 10 percent of the 2 million handguns produced annually in the United States are Saturday night specials, assembled from foreign parts to circumvent the import restrictions of the 1968 act.

A recent study in Florida, where most of these guns are assembled, concluded that only 12 percent of the handguns owned by law-abiding citizens could be classified as Saturday night specials. But 68 percent of the handguns used in the commission of felonies were such weapons.

I have included mandatory minimum sentences in the bill, because I believe this should be one element in our overall attack on handgun violence. I think there is widespread acceptance of the idea that we put in jail those who commit serious crimes with handguns. So the bill provides for such punishment.

The waiting period can be crucial to our efforts to separate criminals from their weapons. A review of 2,000 purchase forms in the files of 12 dealers in one State revealed 187 buyers—nearly 10 percent—would have been identified as felons by a simple FBI check. Those 187 would not have been eligible to buy firearms. The 21-day wait could also provide a "cooling off" period for those intent on buying a handgun to commit a crime of passion.

Currently, records of handgun transactions are scattered among 170,000 dealers. The Kennedy-Rodino bill would have the records processed by the dealer but kept by the approximately 50 handgun manufacturers. This change will make it easier to trace guns used in a crime.

Increasing the license fees—from $10 to $500 for dealers and from $50 to $5,000 for manufacturers and importers—would help rid the industry of those who don't consider dealing in handguns a serious business.

Opponents of handgun legislation point out that gun ownership is broad and that handguns used in crime are a fraction of that total ownership.

Our bill recognizes that handguns are typically purchased for self-protection. It would not deny a handgun to any law-abiding citizen. But handguns owned by honest and nonviolent citizens often become hard-to-trace weapons in criminal hands through private resales, pawnshops, or theft. Studies have also shown that most guns used in crime are relatively new, falling into criminal hands in the first few years after the initial sale.

This proposal takes all this into account. It would simply restrict this flow of new handguns into the huge lethal pool that already exists, and it would make it easier to trace stolen guns and those used in crime.

Some argue against a national law, saving that the welter of 25,000 State and local statutes could reduce handgun violence if they were properly enforced. We do need aggressive enforcement of those laws, and they should not be preempted by national legislation. But as it is now anyone with a few dollars can get a handgun, no questions asked, merely by crossing into a jurisdiction that does not control their sale. We need a national law to provide a uniform standard of accountability for the ownership, distribution, and transportation of handguns.

We hear that the availability of handguns does not increase crime. That may be true, but the fact is that a gun is the most efficient death weapon. Handguns may not increase the incidence of crime, but they surely increase its severity.

Senator Kennedy, perhaps, can address this more fully, but I understand studies in Massachusetts, which has a strict handgun law, suggest that, although the level of criminal activity has not declined since passage of the law, the offenses committed are less deadly. A national law that would supplement State and local laws surely could help reduce the number of deaths, even if violent attacks would not decrease.

This is a moderate proposal. It is completely in line with legislation recommended by Attorney General Smith's Task Force on Violent Crime. It would not outlaw handguns, although it would keep them out of the hands of some outlaws. It would not require registration. It would not require licensing. And it would not disarm the sportsman or other honest citizens who believe they need and have a right to a handgun for protection.

And I do not claim it will stop crime. I realize that, despite a national law, criminals would continue to find ways to get these deadly weapons. But that realization is no argument for inaction on our part. Would anyone suggest we should have no drug laws because lawless persons find ways to obtain illicit drugs?

This issue is marked by deep emotional divisions. Finding a solution to such issues, however, is the test of government. A civilized society demands that we find a compromise that could lead to the arrest of violence and killing in our cities.

To me the question is clear: Do the criminal, the addicts, the deranged continue to have an unchecked right to handguns? Or do we enact moderate, sensible, reasonable legislation to try to curb the criminal violence that snuffs out thousands of innocent lives each year and causes fearful citizens to arm themselves against those who would prey on them?

I do not believe that sportsmen, hunters, and gun collectors are unyielding foes of handgun legislation. They are good and reasonable citizens. I understand the culture and heritage that make guns their most prized possession. I would join in opposing any effort to take their guns away.

But I do not understand how any of us can oppose a law that would make it harder for the criminal, the sick, the would-be assassin, to get a handgun.

Thank you very much, Mr. Chairman.

Senator **Mathias**. Thank you, Mr. Chairman.

Senator Kennedy?

STATEMENT OF SENATOR EDWARD M. KENNEDY

Senator **Kennedy**. Thank you very much, Mr. Chairman and Chairman Rodino.

I just spent about an hour at the dentist; there was some novocain, and I hope I am able to get my message across to the chairman of this committee.

I would like to file my statement in its entirety in the record.

Senator **Mathias**. With no objection, it will be included.

Senator **Kennedy**. And I want to commend Chairman Rodino for a very thorough and comprehensive review of the key elements of our bill and for highlighting the need for this legislation—and I would like to speak just briefly to that issue.

I would say outside the state of the economy, violence in our society is a No. 1 concern for people across the Nation. As a member of the Judiciary Committee, I know there have been a variety of different proposals that have been put forward to try and deal effectively with the growing violence in our society—whether it is juvenile delinquency, how we are going to treat violent juveniles that commit violence and repeaters, whether it is reform of the bail laws, whether it is sentencing reform. But there is no effective package that can be developed to do something about violence in our society that does not include an effective, strong proposal for doing something about the Saturday night specials, and the so-called "snubby" handguns.

And the American people ought to understand that.

Many people talk tough about crime. There are even those who think you can deal with violence in our society on the cheap, by cutting back on law enforcement and on support for law enforcement officials. But the fact remains there is no program worthy of its name to battle the problems of violence in our society that does not include controls on handguns. And it is about time that the Members of the Congress and Senate of the United States, so many of them who make pious speeches about violence in our society, face up to this issue.

As a member of the Judiciary Committee, I have sat before this committee and listened to Attorney General after Attorney General, heads of the FBI, heads of the leading law enforcement agencies, come and point out this fact time in and time out. And I have been a member of this Judiciary Committee and seen the file cabinets of studies that would support this fact.

There are new studies even now, and I would ask that as a part of my presentation, the excellent series of articles by the Cox News Service, be included in the record.

Senator MATHIAS. Without objection, it will be included.

[See appendix for series of articles by the Cox News Service.]

Senator KENNEDY. Mr. Chairman, you and I and others in this country are concerned about an arms race that is taking place between the Soviet Union and the United States. And we are deeply concerned about the survivability of this Nation and of all mankind.

But there is another arms race that requires the attention of the Members of the Congress of the U.S. Senate, and it is the arms race that is taking place in every street in every city of this country. And it is an exploding arms race. It is going to mean more killing, more death, more families that grow up without a father, without a mother.

We are talking about statistics, but we are also talking about families and what is happening within our communities. And we have an opportunity to do something about that. This Congress, over the period of the last 10, 12, 14 years, has refused to face up to the power of the National Rifle Association, although every reasonable study cries out that the American people want a reduction of violent crime and want sensible and responsible handgun legislation.

Now, Chairman Rodino has pointed out what this bill does not do. We do not interfere with the legitimate interests of the hunter. Nothing in this bill interferes with the legitimate interests of sportsmen or sportswomen. Long guns, shotguns, sporting pistols, are not affected, in spite of all the propaganda put out by the National Rifle Association. We are committed to this proposal on handguns and only this proposal. We have heard from those that will distort our position, suggesting that if we pass this legislation it will only be a little ways down the road before they take away your rifle or your shotgun. But that type of legislation will not get my support, and it wouldn't pass the Congress of the United States.

So what we are interested in is a very limited program which has been outlined by Chairman Rodino, which will also not prohibit the legitimate interests of a family in purchasing a handgun if they see fit to protect their family with one—although I, myself, think it is unwise to do so, since statistics verify that there are more accidental shootings in the home than protecting families from intruders.

But be that as it may, there is absolutely nothing in this bill that is going to prohibit that, and that ought to be understood and made very clear.

Mr. Chairman, I don't think that we have to dwell on the importance of having Federal legislation in this area. My own State of Massachusetts, for example, has a good handgun law. But our public safety commissioner has pointed out 86 percent of the weapons that are used in crimes of violence in Massachusetts are purchased outside of the State of Massachusetts.

And we will hear from those that speak for the National Rifle Association and say: "Look at the various communities and jurisdictions, like Massachusetts, which have tough legislation, and what have they done to reduce crime?" That is one of the great misrepresentations they make because it is as easy to purchase a weapon in the northern tier States as could be. That is where for the most part weapons are purchased and used in crimes of violence in other jurisdictions. The idea of a waiting period is not a radical idea. It is included in some 16 State laws.

Mr. Chairman, I would like to just conclude with one or two observations.

We are asked for the empirical evidence about the relationship with regard to the use of handguns and violence in our society. I think what we ought to do is compare, for example, the rates of killings that take place in other countries around the world and what happens in the United States.

Handgun deaths in 1979 in Japan were 48; 8 in Great Britain; 34 in Switzerland; 52 in Canada; 58 in Israel; 21 in Sweden; 42 in West Germany; 10,728 in the United States.

Now, one of the most interesting features of the statistics is that in the other areas of criminal activity, many of these nations are comparable to the United States in terms of burglary, in terms of other crimes of violence. But not in killing. And the dramatic difference between the United States and these countries that I have mentioned is that they have effective laws in dealing with the proliferation of handguns. It just seems to me, Mr. Chairman, that it is about time that we do something as well.

In conclusion, I would just also add a part of the poll that was taken by Senator Pressler. Coming from a rural State which had a good deal of hunting, he posed a question to his constituents, and while not exactly the proposal included in our legislation, it is not unrelated to our central concern. The question was: "Should the Congress adopt uniform laws to restrict the possession of handguns by the criminally convicted or mentally disturbed persons?"

Seventy-three percent in that rural State answered yes—73 percent versus 21 that voted no.

Mr. Chairman, I welcome the opportunity to join you here this morning. The time for action on handguns is long overdue, and I welcome the opportunity to join with others on the Judiciary Committee and in the House committee to try and meet our responsibility to our citizens on the issue of violence in our society. It is time we take this very measured and reasonable and, what I would consider, effective step.

Thank you.

Senator MATHIAS. Thank you both.

One of the serious questions before us is a congressional question: Are we under some illusion here that there is any likelihood we can get action? Senator Kennedy was serving with me on the Senate Judiciary Committee in 1972 when that committee passed—and I would ask his recollection to reinforce my own—I think unanimously, a handgun bill, closed some of the same loopholes which the Kennedy-Rodino bill has addressed; and the composition of the committee in 1972 was very interesting. It included members such as the late Senator John McClellan, Senator Ervin, Senator Roman Hruska, none of whom would be considered advocates of gun control, none of them soft on the issue of gun control, yet the bill made sense to hard-headed serious people of that sort.

Is that recollection correct?

Senator KENNEDY. True. And it passed overwhelmingly in the Senate—passed overwhelmingly. My recollection is there were only 24 or 25 votes cast against it. That was a measured, reasoned piece of legislation, too.

Senator MATHIAS. So the fact that we have not been able to achieve action since the 1968 act should not be a deterrent to going forward from a congressional point of view at this time; would you agree with that?

Mr. RODINO. I would certainly agree.

As a matter of fact, I believe it is all the more reason to push forward. I believe that we have the responsibility, especially at this time. We have reacted on occasions when there was a surge of enthusiasm and support, which then, of course, again died down. But I believe this is not a matter as to whether or not this is something we do or don't do. This is a matter that we have got to do. Sooner or later we have got to recognize, as the Senator has underlined, that violence in our society, and the arms race taking place which certainly encourages the violence, is one of the most compelling reasons for us to go ahead.

I can't speak for other Members of Congress, because I do know that other Members of Congress are rather shy when it comes to gun control—about giving their support because of the so-called omnipotent power of the NRA.

I know I am not talking as an idealist, but as one who is dealing in practicalities, when I say we need to do this because the American people want this. The American people are fed up with crime in our society. They are calling on us to find some solutions.

The task force, the Attorney General's Task Force on Violent Crime, has pointed out that this approach is one of the major means of dealing with crime. I don't know why we shouldn't continue.

So my answer, though long, is emphatically and clearly, yes.

Senator MATHIAS. I wouldn't depricate your role as spokesman for idealists. I think your career has been one of pragmatic idealism.

But Professor Cook just testified that he felt the concealability of a weapon was the real target for legislation.

Do you think that your legislation will get at this dangerous element of concealability, which makes the handgun such a lethal weapon and which distinguishes it from the shotgun or the sporting rifle?

Mr. RODINO. Yes, I believe so. I think the studies have shown that the concealable handgun has been the most lethal weapon that has been used, and the Senator pointed out that the study about the snubbies certainly clearly again underlines the need for addressing the problem of concealability, and we do in our legislation.

Senator **Mathias**. In the current climate----

Senator **Kennedy**. I will just mention on this also, Mr. Chairman, this Cox newspaper report that evidence from Atlanta, Miami, and 16 other cities indicates two out of every three handguns used in murder, rapes, robberies, or muggings, were snubbies—handguns with barrels protruding no more than 2 inches beyond the cylinder. As this article points out, they are not accurate beyond the range of a card table, or 10 to 12 feet. It has absolutely no sporting purpose whatsoever except killing human beings.

One other report I would like to put in, Mr. Chairman, is the study that was done in the District of Columbia, the number of handgun deaths in the District of Columbia.

From 1974 to 1978—the handgun law was enacted in 1977—crime and violence were increasing generally across the country. But in 1974, in the District there were 174 killings, and in 1978, 112. The most dramatic reductions were in the reduction of killings in the home—almost a 300-percent reduction.

I think that is important.

But I would agree that concealability is what we are basically trying to deal with.

Senator **Mathias**. Do you have any similar figures for Massachusetts?

Senator **Kennedy**. We have.

One of the points, the interesting points there is that there is a requirement obviously in terms of purchasing a weapon, but there is a requirement in carrying a weapon but not for having a weapon in the home.

Senator **Mathias**. I have just one other question which emerges in the climate of the New Federalism discussed today, in which there is a review of the relationship between the National Government and the State government.

Your bill would appear to encourage the establishment of State permits to control the acquisition and carrying of handguns by individuals. Although it would not be obligatory, it would allow individuals to avoid the police checks that would otherwise be required and to avoid the waiting periods if they wanted to buy handguns. In order to be effective, under the bill, the States would have to set up standards which would comply with the Federal guidelines. Do you see this as the full extension of desirable Federal intrusion when it comes to actual licensing of the buyer or the user of a handgun?

Mr. **Rodino**. I believe it is essential that we recognize the need for Federal-State partnership in the effort to curb this kind of crime. All of us talk about crime, and we try to differentiate and say crime is a State responsibility and, therefore, the National Government should have no role. Fine, it is the primary responsibility of the States. But where it becomes a problem that crosses State lines, and becomes a matter of national concern, then, I think, we need to do those things we have done in the bill. We urge the States to carry out the licensing requirements so that the would-be purchaser doesn't have the 21-day waiting period. I think this again gives credibility to the total package.

Senator **Kennedy**. The provisions in our bill recognize, as you pointed out, that if the waiting period would be waived if the purchaser has complied with a State law requiring a license or permit to purchase a handgun. So if the States take some action, that will supersede Federal standards.

I agree that one of the important elements that is included in our bill is a waiting period.

President Reagan, himself, has endorsed generally the waiting period concept. It is part of the California law. I think that is a very important and essential element of this proposal.

Senator MATHIAS. Along with the question of federalism, of course, one of the features of our bill is the transfer of firearm control functions from Treasury to Justice.

What advantage do you see to that particular reorganization?

Mr. RODINO. Justice has been the chief law enforcement agency. It has dealt with the problem of crime. The Bureau of Alcohol, Tobacco and Firearms is, more or less—or the Treasury—is a collection agency, assembling data, et cetera. I think that we are dealing with a matter that needs to be looked upon as a matter of law enforcement, and I can't think of any arm of Government other than the Department of Justice that can deal with law enforcement in this area. I think they have the expertise and the inclination, and they would get the enforcement support.

Senator KENNEDY. I have a somewhat different position.

I would hope you might consider the Secret Service in this area. For some period of time have favored the Justice Department. I looked into it at some length; but given the recent pressures to reorganize the BATF, the Secret Service is being given additional responsibilities and resources. I think they have an extraordinary degree of competence tied in very effectively to law enforcement personnel around the country.

Mr. RODINO. I would like to say that the idea the Senator has advanced is certainly one we could put into the pool. I do know the Secret Service is very competent.

Senator MATHIAS. Well, at least you have raised our level of consciousness on where the enforcement ought to be. I think that should be reviewed, and particularly if there is to be a new relationship of the States.

Gentlemen, we are very grateful for both of you being here. You may want to look at the testimony of subsequent witnesses, particularly the National Rifle Association. And if you have supplemental thoughts that you want to add to the statements, we will be glad to have them.

The record will remain open.

Senator KENNEDY. Mr. Chairman, I had an opportunity to read their comments in just about every State in the Nation in 1980 when I traveled around the country. I hope that their factual presentation here today will be considerably more accurate than their gross distortions and misrepresentations of Chairman Rodino's and my own position on this issue.

Senator MATHIAS. Thank you, gentlemen.

Mr. RODINO. Thank you very much, Mr. Chairman.

[The prepared statement of Senator Kennedy follows:]

PREPARED STATEMENT OF SENATOR EDWARD M. KENNEDY

It is an honor for me to be here this morning and to commend your leadership, Mr. Chairman, in launching this series of hearings on handgun control.

And I am also honored to be here with Chairman Rodino and to join him in sponsoring legislation in this Congress to deal with the epidemic of handgun violence that plagues our society.

Since I first introduced handgun control legislation a decade ago, the number of such weapons in circulation in the United States has nearly doubled -- from 31 million in the early 1970's to over 60 million today. Instead of 15 handguns for every 100 Americans, there are now more than 25.

Worse still, the toll of handgun deaths has also escalated. Each year, handguns are used in more than 10,000 murders in the United States and another 500,000 crimes of violence. Each year on the average, one out of every 100 handguns in this country's private arsensal is used to commit a crime.

A new handgun is sold every 13 seconds somewhere in America. In a single year, 2.5 million more handguns are added to the national stockpile. By the year 2,000, there will be 100 million handguns in circulation in America -- enough to arm a third of our population.

Since Chairman Rodino and I introduced our bill last year, additional evidence has become available to demonstrate again the high correlation between violent handgun crime and cheap, easily concealed handguns.

A prime example of this new evidence is the outstanding series of articles published last year by Cox News Service. After months of research, sifting through hundreds of thousands of statistics, the reporters came to the same conclusion we did in drafting our bill -- we must control the production, sale and possession of small handguns -- the so-called "snubbies" -- if we are serious about controlling handgun violence in America.

The Cox reporters found that two out of every three handguns used in murders, rapes, robberies, and muggings have a barrel length of three inches or less. As the study concluded, these snubnosed handguns are "the overwhelming weapons of choice among street criminals and assassins."

According to this study, the handgun most often used in crime is a .22 caliber revolver with a 2-inch barrel. It is assembled by a German-owned plant in Florida from parts imported into the United States under the loophole that has done so much to make a travesty of the current law. It is used in one out of every twelve handgun crimes. The fastest selling model of this revolver retails for $39.95. It is the model bought in Dallas and used in Washington, D. C. a year ago this month by John Hinckley in his attempt on the life of President Ronald Reagan.

Now a year has passed. By the grace of God, the President survived. But nothing has been done about the easy access of criminals and murderers and assassins to these easily concealed tools of sudden death.

Such handguns have only one purpose -- to kill another human being. I believe that these handguns should not be produced in the United States; they should not be assembled in the United States; and they should not be sold in the United States. And that will be the result when the bill we favor becomes the law of the United States.

Because we fail to act, the casualty list climbs higher day by day. Every fifty minutes, another American is murdered by a handgun. By this time tomorrow, 30 more Americans will die in handgun murders. Fifty percent of all murders in the United States are committed with handguns.

During the peak years of the Vietnam War, 40,000 American soldiers died; in the same period, 50,000 Americans were murdered by handguns. The Vietnam War ended -- but the handgun slaughter here at home goes on. We are a nation at war with ourselves, because we refuse to halt the proliferation of handguns in our society. Unless we act against the violent criminals, the killers and the psychopaths, thousands more Americans every year will die.

Reasonable steps are available if we have the will to take them. We can end the arms race in our streets and neighborhoods. We can ban snubbies. We can stop the lethal flood of handgun parts imported from overseas. We can reduce the chance that a handgun will fall into the wrong hands. We can stiffen the penalties for those convicted of handgun crimes. And we can do all this without jeopardizing the right of American citizens to protect their homes and families, without interfering with the rights of those who use handguns for sporting purposes, and without affecting rifles and shotguns in any way.

The opposition of the National Rifle Association is well known -- but it is, after all the National Rifle Association, not the National Handgun Association. Handgun control is all we seek, and that is all our legislation asks.

In the face of the urgent need, it is difficult to believe that Congress has failed to respond for all these years. The lives of more than 10,000 Americans are at stake -- this year, next year, and every year. It is time we summoned the courage to meet our responsibility as representatives of all the people of America.

Senator MATHIAS. Our next witness will be Neal Knox, executive director of the Institute for Legislative Action, National Rifle Association.

STATEMENT OF NEAL KNOX, EXECUTIVE DIRECTOR, INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSOCIATION

Mr. KNOX. Mr. Chairman, I would like to request my complete testimony be inserted in the record, along with the various supporting documents: "Weapons and Violent Crime: Executive Summary"; Chapter VII of "Weapons, Crime, and Violence in America," a study by James D. Wright, Peter H. Rossi, et cetera; "The Relationship Between Gun Ownership Levels and Rates of Violence in the United States," by Gary Kleck, School of Criminology, Florida State University; "Homicide, Robberies and State 'Cooling-Off' Schemes: A Preliminary Analysis," by Prof. Joseph P. Magaddino and Prof. Marshall H. Medoff, California State University; "Handguns, Homicide and the Gun Control Act of 1968," by Profs. Joseph P. Magaddino and Marshall H. Medoff; "The Assumptions of Gun Control," by Profs. Gary Kleck and David Bordua; and "Conceptual, Constitutional, Enforcement and Experiential Problems Involved in Mandatory Sentencing for the Unlicensed Carrying/Possession of Handguns," by Paul H. Blackman.

Mr. Chairman, I appreciate——

Senator MATHIAS. Let me rule on those. Without objection——

Mr. KNOX. Yes, sir.

Senator MATHIAS [continuing]. Those will be included as part of the record.

[The documents referred to by Mr. Knox appear in the appendix.]

Mr. KNOX. Thank you very much.

I appreciate the opportunity to testify on behalf of the 2-million-plus members of the National Rifle Association in opposition to restrictive gun laws as a means for curbing crime.

It is indeed appalling that this august committee has chosen to focus its time, energies, and efforts on futile attempts to declare one type of firearm evil over another type, or to consider severely restricting law-abiding citizens from owning or using in a responsible manner one or more types of firearms under the guise of controlling crime.

By their very nature, gun laws do not work. Any form of restrictive law aimed against guns is misguided, misdirected, a misappropriation of public funds, and a futile effort to reduce crime.

It is not enough to state the problem as has been done this morning, talking about the number of offenses. What must be done is to propose a solution that will resolve the problem. No one today has cited any type of gun law that works yet; every type of gun law that has been discussed this morning has been tried. I will admit that the gentlemen this morning, Professor Cook, Senator Kennedy, Chairman Rodino, all acknowledge that there is no evidence that gun laws have worked. And I submit that before I and the 2,100,000 NRA members be forced to submit to these laws, there should be evidence that where it has been tried it has worked. And it has not.

Gun laws fail because they do not address the issue. The issue is not possession of firearms, but misuse of firearms. We cannot expect criminals to abide by gun laws, when they have already shown a disregard for law and order by their criminal activity. The only people ever affected by gun laws are peaceful, law-abiding citizens, who never abuse their firearms right.

I find it interesting that the sponsors of this handgun legislation now say they are only interested in handgun legislation. But I well remember when Senator Kennedy, for instance, was proposing restrictions on rifles and shotguns, so I give no credibility to his sudden conversion to advocacy of "only handgun" legislation.

For several years, in many forums, I have said that no city, no State, no nation can be shown to have reduced its crime rate by the enactment of a "gun control" law. That statement has never been factually challenged.

And Professor Cook this morning acknowledged it to be a true statement.

In many respects, this debate should have been put to rest with the release of the findings of a 2-year, Government-funded study into the relationship between firearms ownership and violent crimes.

The research, conducted by Professors Wright and Rossi, of the University of Massachusetts at Amherst, under a $207,000 grant from the National Institute of Justice of the U.S. Department of Justice, entitled "Weapons and Violent Crime," reviewed literature and studies to determine what definitive evidence exists on issues relating to weapons, violence, and crime.

It examined the amount and quality of criminal justice data available on weapons through a national survey of 609 law enforcement agencies and an analysis of court records of a sample of 5,000 felony cases processed by the Los Angeles Superior Court.

In short, the research proved exhaustive. And its findings were unequivocal. The researchers concluded that "there is little evidence to show that gun ownership among the population as a whole is, per se, an important cause of criminal violence."

Professors Wright and Rossi found that many of the common assumptions about the firearms and crime issue are unsupported. They found that 50 percent of American families acknowledge gun ownership and that three-fourths of these privately owned guns are used for sport and recreation; the remainder for self-defense.

They found "no persuasive evidence" to support the allegation that "most homicide would not occur were there firearms generally less available." And they concluded that "any action taken to deny firearms to would-be criminals will necessarily deny them to a vastly larger group of persons who will never contemplate, much less commit, a violent criminal act"—a cost which must be "weighed against the anticipated benefits before a rational policy decision can be made."

The cost to which these researchers alluded is twofold: The cost to life and the cost to civil rights and civil liberties.

Professors Wright and Rossi found that privately owned handguns seem to be about as effective a deterrent to crime as is the judicial system. "Available evidence suggests that the probability that a person burglarizing an occupied house will be shot is about 1 percent." Actually, their study showed 2 percent. "As it turns out, this is nearly the same probability that an offender will be apprehended, charged, convicted, and sentenced. Actually, guns may be a more effective deterrent since a burglar making his own cost-benefit analysis is bound to count the possibility of being shot to death as a more serious risk than that of spending a few years in prison," an attitude I just read the day before.

In analyzing the alleged relationship between availability of handguns and so-called family homicide, Wright and Rossi pointed to a study done in Kansas City which shows that 85 to 90 percent of family homicides occurred in households to which police had already been summoned, in many cases repeatedly, to break up violent quarrels. Thus, "when family homicides do occur, they are not unexpected outbreaks caused by the availability of handguns, but rather the culmination of a long history of violence." And the researchers concluded that in a violence-prone household, one must assume a "substitution factor"—a knife, rifle, or shotgun—items as or more deadly than handguns.

Recent research is finding over and over that guns are not the problem, and that gun laws do not reduce the amount of violent crime in our society.

For example, Profs. Joseph Magaddino and Marshall Medoff of California State University at Long Beach have completed one study on the impact of the Gun Control Act of 1968 and a preliminary study on the effects of waiting periods. The first finds that the law has done nothing to reduce the amount of homicide or violent crimes, while finding that the law has, if anything, caused an increase in the number of privately owned handguns. They found, then, that gun laws may increase the number of firearms but have no impact on reducing homicide rates.

That conclusion is supported by a study by Prof. Gary Kleck of Florida State University's School of Criminology.

Professor Kleck studied the relationship between homicide and gun ownership. He found that increasing homicide rates were followed by increasing acquisition of firearms by individuals. But he found that increasing the number of firearms did not increase the number of homicides. In other words, in response to an increasing crime rate, people buy guns for protection but do not then misuse the firearms themselves.

Professors Magaddino and Medoff's study of waiting periods found them to be totally useless in reducing crime. They found no relationship between a waiting period or cooling off period and any type of violent crime, except they noted there was a slightly higher homicide rate and a slightly higher robbery rate in places with such "crime control" experiments.

Although it might be said that restrictive gun laws are the cause of higher crime rates, a more accurate assumption is that high crime rates resulted in experiments with gun laws to curb the crime, but without effect.

The result has been that gun laws have succeeded only in disarming the law-abiding, and making the criminals' work environment safer. I submit that our concern should be to make the environment safer for honest citizens, and this, gun laws have failed to do.

The evidence of the various studies is fairly clear, whether those studies are by persons with an antigun axe to grind, objective scholars, or someone with a progun axe to grind.

Guns are not demonstrably a problem. And gun laws have either no impact on crime or cause criminal violence to rise—especially assault, Pierce-Bowers; robbery, Magaddino-Medoff; and homicide, Magaddino-Medoff.

In response to violent crime, people buy guns. Those purchases do not adversely affect the problem of violent crime. Indeed, the persons most likely to own handguns solely for protection are among the persons most likely to be victimized by violent crime and least likely themselves to commit violent crime: poor, black, female heads of households.

People will acquire handguns for protection in response to violent crime. Laws will, if anything, simply encourage faster gun purchases out of fear of more restrictive future legislation. That, too, is a conclusion of the Magaddino-Medoff study on the Gun Control Act of 1968. In short, pushing for restrictive gun laws will, in and of itself, encourage more gun purchases. The legislation will not reduce the amount of violent crime.

Law-abiding citizens are purchasing handguns for self-defense; they are purchasing handguns to provide the protection the government and the police cannot provide. I call the subcommittee's attention to the recent *Warren* v. *D. C.* decision in which an appelate court ruled that police have no responsibility to protect the individual—only the public at large.

In some areas like Miami and Baltimore, law enforcement officials have told the public to arm themselves against criminals. Many of these new handgun owners are women who live alone. They are frightened, law-abiding citizens. They are people who live or work or own businesses in unsafe neighborhoods who would rather be caught in possession of a firearm outside the law than be caught by a criminal in the street without any means of self-protection.

In 1975, in hearings before the Judiciary Subcommittee on Crime in the House of Representatives, Judge David J. Shields of the Circuit Court of Cook County, Ill., colloquially known as Chicago's "Gun Court," described in detail the kinds of people that appeared before that court as defendants. Judge Shields told the following:

> Most are there with their first arrest, many are old people. Shopkeepers, persons who have been previous victims of violent crimes, and others who carry guns because of a sincere belief in their need for protection constitute the greatest part of the call. Their attitude was probably best summed up by the remarks of an elderly defendant in a recent case when asked why he carried a gun when he knew it was against the law. His response was, "I'd much rather be caught by the police with a gun than be caught out on the street in my neighborhood without one."
>
> This Court and probably most members of this committee are not really exposed to the problems of the ghetto society, except as spectators. It is very unlikely that most of us would even go into those areas, except in broad daylight under the optimum circumstances, but surely not at night, alone, or on foot. Some people have no choice. To live or work or have some need to be on this "frontier" imposes a fear which is tempered by possession of a gun. The very argument, that of self-protection, that most gun advocates advance is certainly much move appropriate in the black community of Chicago than in the isolated suburbs in which it is unusually heard.

Now, Mr. Chairman, and members of this committee, ask yourselves whether you wish to force these people, law-abiding citizens frightened of criminals, to give up their handguns? I submit that the only way is to make these people more terrified of the government than they are criminals. I seriously doubt that any of us would want to live under a government more terrifying than a criminal.

Mr. Chairman, I call your attention to a Maryland resident, a former police officer, Richard Boulin, a firearms dealer, who was accused of selling firearms from his private collection without filling out the required Federal form 4473. He was arrested by BATF and prosecuted for alleged recordkeeping violations of the Federal Gun Law, 11 counts of Federal felonies. Yet, by the BATF's own admission, through a letter to Senator Hayakawa, 1 week before his conviction, a licensee may mai[illegible]n a private inventory and disposition of such firearms without [illegible]ering the transaction in the licensing records. This information, [illegible]al to Mr. Boulin's defense, was withheld by the Government.

Mr. Boulin was convicted of violating a requirement which even the BATF's acting director said did not exist. I might add in that particular case, BATF subsequently said that they rejected their own earlier statement and that it was a violation, and 6 months later, the director said in another forum that it was not a violation.

They went back and forth on what the law means like a windshield wiper, but a man is today a convicted felon because of that. And I think it is something that the committee should be concerned about.

Any restrictive gun law can only make the effect of stripping citizens of their civil rights, their civil liberties. Those civil liberties abuses have been well documented before both the House and Senate Judiciary Committees which heard scores of citizens describe the abusive enforcement practices of the Bureau of Alcohol, Tobacco and Firearms in applying the iniquitous provisions of the 1968 Gun Control Act.

GCA 1968 has been enforced almost exclusively against the nonviolent, against an entire class of people who have not and would not knowingly commit a crime.

As with any gun law currently on the books, or being proposed, it has the clear effect of making millions of peaceful citizens criminals overnight. Any restrictive gun law inherently provides for increased police and Government power over people.

Every restrictive gun law ever passed inherently infringes on the civil liberties that Americans hold dear—the constitutional protections of privacy, freedom from unreasonable search and seizure, due process, and the right to keep and bear arms. Yet, some would have you believe that more gun laws are justified.

Rather than delve in any form of gun control, I call your attention to the report recently released by the Senate Judiciary Subcommittee on the Constitution, entitled "The Right to Keep and Bear Arms," which was produced as a result of a longstanding inquiry by that subcommittee.

Many of the most common proposals to impose severe restrictions on the purchase and possession of firearms are included in a piece of legislation that has been introduced by Senator Edward Kennedy.

The three main provisions of the legislation are a 21-day waiting period, a Saturday night special ban, civil liabilities for the nonreporting of thefts/losses of firearms, and a Bartley-Fost type mandatory sentence for the unlicensed carrying of a firearm.

In conclusion, Mr. Chairman, this legislation is a sham. To decrease crime, this committee must do something positive to reduce the amount of violent crimes. The time has come for answers, not bogus cures. The time has come to end "gun control" experiments.

The time has come to give the Nation workable, effective, and long-overdue solutions to crime: Increased police protection, more judges to give teeth to the Speedy Trial Act, career criminals programs, and mandatory punishment for using a firearm or destructive device to commit a violent crime.

Mr. Chairman, like all other "gun control" bills, the debate on Senator Kennedy's bill serves only to distract the public from the solutions to the crime problem. And if it were to be enacted, it would divert the Nation's scarce police, court and penal resources away from criminality and into prosecution and punishment of noncriminals.

In short, Mr. Chairman, like the "gun control" laws now in effect, it would have no impact upon crime or criminals, but outrageous consequences for honest citizens.

The studies which I have cited, and include as an addendum to my testimony, provide clear and convincing facts that restrictive gun laws cannot, and will not, reduce crime.

I would be glad to respond to any of your questions, sir.

Senator MATHIAS. Well, I appreciate your testimony; and I appreciate particularly the emphasis you put on the fact that this problem is worse in the ghettos of our cities.

If some prominent citizen is assaulted in his affluent suburban neighborhood, it usually makes news and that obscures the fact that perhaps on the same night, several citizens equally worthy of the protection of society may have been assaulted, wounded, or even killed, in the less than affluent neighborhoods and the ghettos. This is the tragedy of our society.

Now, one of the conclusions you draw from that, I think, presents the subcommittee with a factfinding challenge because it seems to me that the implication of your testimony is that the ghetto dwellers are not interested in any form of protection, any form of gun legislation. This is not a scientific poll, but my impression from being on the streets of Baltimore, for example, in the ghetto areas, in the black neighborhoods, in the center city, is that there is a substantial interest in gun control legislation.

Now, did I hear you correctly?

Mr. KNOX. I would like to point out that in Chicago, there is a great debate going on right now concerning an additional law, proposed by Mayor Jane Byrne; the principal opposition to that is coming, I am told, from the black community. The black community in downtown Chicago in the inner city of Chicago is the one group most likely to be victimized. They also know that a law that says that a criminal must not be able to get a gun has failed to do so and they are the ones who are opposing this bill.

There were seven walks, I believe, last week.

Senator MATHIAS. This is a very valuable part of your testimony. That is why I singled it out.

I think we need to find out just exactly what the attitudes are, particuarly the attitude of the big cities, where so much of this problem exists. And I would solicit your further help in trying to pin down just what the current state of mind is.

Now, most of the victims—let me go back and rephrase it.

In many cases, the criminals are the denizens of these center city areas that we often call ghettos. But the victims are also the denizens of these ghetto areas.

Mr. KNOX. Yes, sir.

Senator MATHIAS. And an overwhelming number are victims there, so the attitudes are extremely important because they are the people that are most affected by this problem. And your testimony is that they would oppose this legislation; I think it is something that we will have to really dig at.

Mr. KNOX. I know that certain residents of these inner cities do definitely oppose such legislation. I was in Chicago about 2 weeks ago, and I had a rather lengthy discussion with Rev. Russell Meek, a tremendous spokesman for his black race, and he told me that he considered that gun control is nothing more than racism.

I remember some years ago, a prominent black leader in Houston made the statement that a ban on Saturday night specials defined as cheap guns was "unilateral disarmament of the blacks."

Now, I can't begin to speak for the inner city dweller. I do know there is a problem, but I am also convinced that many of the representatives of the same people do not properly represent their constituents in this area.

There was a considerable flurry here in Washington about a year ago when Maurice Turner was being considered as chief of police, and he stated that he did not see gun control as a solution to their crime problem, and he said that he felt that people do have a right to own and bear firearms.

Now, that did not sit too well with the City Council, but he was confirmed.

I also notice that Mayor Marion Barry testified not very long ago before one of the committees in favor of additional firearms legislation, and yet he was asked about the District of Columbia law that prohibits anyone from possessing a loaded firearm with which to defend himself. And he said, and I was not there, but I read the transcript, and I paraphrase. He said that people don't pay any attention to that law. Honest people. Because they need to defend themselves.

He was also asked about a statement he made in a magazine that he carried a .38 special. Now, he carried that in violation of the law that existed, but that was the Mayor.

I submit, Mr. Chairman, that the District of Columbia law—by the way, there were some statements about the effectiveness of the District of Columbia law; Senator Kennedy cited a study that there had been a 36-percent drop in handgun homicides here in the District. It should be noted during the same period, there was a 46-percent decrease in homicides in Baltimore, and there is another thing that the biggest decrease did not occur in the killing of relatives in the home, as he stated, but in self-defense, justifiable homicide. I made the comment that some of the efforts to enact gun laws have had the not-intended effect of making the work environment safer for the criminal.

Senator MATHIAS. Now, having in mind Professor Cook's testimony this morning, have you ever discussed with these black leaders what difference it would make if they were afforded self-protection with a 4-inch gun instead of a 3-inch firearm?

Mr. KNOX. I think that is a pointless argument. If I talked to him, it wouldn't make any difference, because if I brought before you an 8⅜-inch .357 magnum, one which I own, it is a very simple thing, takes about 3 minutes with a hacksaw to cut off that barrel to 2 inches.

We had a Supreme Court decision holding anything below 21 inches is "concealable," or at least one 21 inches is "concealable." With a hacksaw you can convert a long-barrel gun into a short-barrel gun without the slightest difficulty.

The idea of this succeeding in somehow reducing the crime rate is to me rather ludicrous, because it has been tried and it didn't work, and the only thing that does work is that when you impose the sentence for the type of offense which you are really concerned about, and that is a robbery, a murder, a rape, committed with a deadly weapon. If you address that kind of offense and you promise punishment, then you see that the crime rate does go down, so long as that type of law is publicized and is enforced.

When it ceases to be enforced, the crime rate goes up.

We have made crime pay by our judicial approach and I submit that the solution, pragmatic solution, effective solution is to punish the offense.

I consider robbery, a rape, a primary offense. The idea of imposing a law addressing a secondary offense, a gun law, carry law, whatever it is, in an effort to stop the primary law when you do not punish the primary law, we are turning things out of balance. This is why it doesn't work.

Senator MATHIAS. You speak of the ineffectiveness of the gun laws, and of course, that is a matter of great debate. But there is one aspect of the 1968 gun law that I think isn't controversial, and the area in which it hasn't been very effective. It has reduced the importation of so-called Saturday night specials; would you agree?

Mr. KNOX. It has eliminated it, the importation of several very high-quality, well-made handguns. It has not had any effect upon the crime rate.

Senator MATHIAS. I didn't say that. I said, it has affected the importation of guns?

Mr. KNOX. Yes, sir.

Senator MATHIAS. Now, what it has also done is increased the domestic, either assembly or manufacture or similar methods?

Mr. KNOX. That has hurt.

Senator MATHIAS. It hasn't been without effect. It may not be what the authors of the bill projected, you can't say it has——

Mr. KNOX. It has had an effect. The purpose, the intent was to reduce the crime rate. In actual fact, in 1968, about one-half of the murders in this country were committed with firearms. Today, there are roughly twice as many murders, and still one-half of the murders are with what? Firearms.

Senator MATHIAS. Now, that brings us to President Reagan's commission, Task Force on Violent Crime, because the task force looked at the loophole.

You can say it was either created or was left as a result of the 1968 statute; right?

Mr. KNOX. For the moment, I will agree, and I will address that.

Senator MATHIAS. That isn't a very broad commitment. But while the task force has urged closing the loophole, or the omission in the 1968 act which allows the admission of handgun parts for assembly here, it has made no recommendation to restrict the interstate flow of Saturday night specials within the country or otherwise to restrict domestic manufacture and distribution.

Now, is it your position—is it the NRA's position that they would support the recommendation of the task force insofar as the importation of parts is concerned?

Mr. KNOX. No, sir. We would oppose it, because the prohibition on foreign imports was largely designed as protectionist legislation, in my opinion. It was sponsored originally, going back to 1958, by various gun manufacturers and their representatives in the Senate.

The idea of eliminating a particular type of gun, whether it be domestically made or foreign made, is to me repugnant. The idea that it is going to have an impact upon crime is demonstrably false.

The misstatements that are generally made about this loophole is that the parts are made overseas, brought over here and assembled here as if it were the entire gun. In fact, the frame, or receiver of those guns is not made overseas. It is made in this country. Certain parts are brought over here and assembled here. However, certain parts for handguns are made overseas and imported into this country for very high-quality guns. It simply doesn't address the problem.

Senator MATHIAS. What is the NRA's position on the existing ban on the importation of nonsporting handguns?

Mr. KNOX. We think it is a bunch of foolishness.

Senator MATHIAS. Now, we have heard a distinction drawn today primarily by Professor Cook between the Saturday night special and concealable handguns. Do you have any difference in your feeling between a ban on concealable weapons and one on Saturday night specials?

Mr. KNOX. First of all, sir, in all honesty, as discussed today, a Saturday night special seems to mean all things to all men, or nothing. The phrase doesn't really mean anything.

I would call your attention to the fact that Professor Cook said that if a law were effective in reducing gun availability to criminals, it would reduce the intensity, but not necessarily the number of violent crimes.

I would submit that to say if the law is effective is a big assumption, because there is no evidence that any such law has ever been effective in reducing gun availability to criminals. And, therefore, I feel that since his underlying premise is it cannot be supported, his total conclusion must fall.

In the division between concealable or unconcealable, I point out that although it is, as was stated earlier, in most States a violation of the law to carry guns concealed, there are also permits to do so, to law-abiding citizens in many of those States. Those people, therefore, are legally licensed to have a concealable handgun. The proposed bill would eliminate the availability to them of a concealable handgun, despite the fact that they are licensed. We are trying to reach out to the criminal misuser of firearms and other weapons and, in this particular case, you are dealing only with handguns.

I don't think the committee would really like the result that would occur if the .22 caliber small short-barrel handgun were substituted with a .357 magnum longer barrel or more powerful handgun. I don't think the committee would like it at all, nor would I, if the substitute were a shotgun because whereas a knife has roughly the same level of deadliness, when a stab wound occurs in a vital area or in the body, it is still in a very relatively low percentage of cases that it is fatal. However, in the case of a shotgun into a vital area, it is virtually 100 percent effective. I don't think this is what the committee would like to see. I don't want to see the armament of crooks on the street improve.

Senator MATHIAS. Senator Thurmond, the chairman of this committee, who is unfortunately in the hospital today, has introduced a bill, S. 1387, requiring a waiting period for the purchases of handguns within a Federal enclave.

Are you taking a position on that?

Mr. KNOX. Yes, sir.

We are opposed to it because as was mentioned this morning, there are about 15 States that have waiting-period bills. The purposes of these bills range from simple cooling-off periods to a background check. If a person, and where they have been put into effect, there has been no diminishing of the crime rate, as pointed out in various studies; the criminals easily evade the waiting-period laws.

I live in Maryland. I am one of your constituents, and in the last year or so, I have purchased six handguns. I have gone through the waiting period and licensing permit purchase systems four times in the past year or so. Twice I bought two handguns at once just to cut down on the foolishness.

Now, if this purpose is to somehow protect the public from me being—having a gun readily available to me to go out and commit an offense—they fail to consider I already had 100 or so. I have gone through the procedure before and yet I am required to go through it again. If I am precluded from possession of a gun as a narcotics addict, mental incompetent or convicted felon, I know that I can't buy one legally, so I would go over to 14th Street here in Washington and buy one illegally, without any difficulty whatsoever.

Senator **Mathias**. Of course, that reminds me a little of my experience recently in Maryland.

A pickpocket got my drivers license. I was still the same person, I had still the same driving skills; I was still a resident. I still lived in the same house, but I had to go through all the procedures that are required out in Gaithersburg, including getting my picture taken in order to obtain a new license, in order to reestablish my right to the privilege of operating a motor vehicle under the authority of the State of Maryland. It was a nuisance. It took me the better part of a morning. It wasn't my fault that my pocket got picked. It wasn't that I had carelessly lost my license or anything of that sort. It is one of those impositions of society on the individual's time and freedom which we put up with because the orderly organization of society seems to require it.

Do you see any kind of parallel in your experience and mine?

Mr. **Knox**. Well, one key difference is that the Maryland driver's license is valid for 3 years. We do not have to go through that procedure every time we buy a new car.

Now, I have noted that in a State like Maryland with these kinds of gun laws that there was no impact upon the crime rate. I went back and looked at these numbers when the law was imposed, the crime wave rate continued to go up until such time as Maryland imposed a mandatory sentence for misuse and then it leveled off. Misuse sentence worked. The law that they were talking about here is simply evaded.

There is also a law I think in most States that you must have insurance. It is evaded by those we are most concerned about.

Senator **Mathias**. Now, the NRA has made a very thoughtful and well-considered recommendation, but in the case of crudely manufactured, very unreliable handguns, it would be appropriate to have a ban, am I right?

Mr. **Knox**. Some years ago, there may have been such a statement made for safety's sake. But that is not the policy of NRA, and I remember about 10 years ago there was considerable—a considerable amount of discussion then about "crudely made Saturday night specials"; that was the word used. We have seen those bans, Senator.

Senator **Mathias**. This was a statement of Maxwell Rich who, as executive vice president, made the statement in the course of the hearings on Senate Resolution 32——

Mr. KNOX. What year?

Senator MATHIAS. That was during the discussion of the bill that we have talked about this morning, the 1972 bill, which did pass the Senate in that year.

Mr. KNOX. About 10 years ago.

Senator MATHIAS. And his statement at that time was that the National Rifle Association concurs in principle with the desirability of removing from the market crudely made and unsafe handguns.

Mr. KNOX. He was talking about safety rather than effectiveness in controlling crime, and so indicates there. However, it just should go on the record that the NRA membership opposed what Executive V. P. Maxwell Rich said at that time, and, in about 1977, was removed from office, on the floor of the annual meeting, by the voting members of NRA.

Senator MATHIAS. I think that White House press secretary, Mr. Ziegler, invented a phrase, "That statement is inoperative." Would that be appropriate——

Mr. KNOX. That is a fair statement.

Senator MATHIAS [continuing]. To apply to that?

Mr. KNOX. Yes, sir.

Senator MATHIAS. Getting back to the Attorney General's task force, I would take it, then, that the NRA opposes the task force report's recommendation of a waiting period, to replace the honor system for drug addicts in order to be more effective; am I right?

Mr. KNOX. I misunderstood the last part of your statement. To replace the honor system for drug addicts?

Senator MATHIAS. Well, that is a task force description of what——

Mr. KNOX. I am not familiar with that section, sir. I don't know anything about it.

Senator MATHIAS. Well, you might want to look further at the task force report on that honor system provision. I would be glad to have your further comment on that after you have had a chance to look at it. But they do make a recommendation of the waiting period there, and your general position is in opposition to the waiting period?

Mr. KNOX. They made a recommendation for a waiting period for the purchase or buying firearms, I forgot which, and opposition on that I am very familiar with. I am familiar with the task force recommendation, and our position, which is in opposition.

Senator MATHIAS. They also specifically, in connection with cases such as drug addicts, which is a special case——

Mr. KNOX. Oh, I think they said to be sure that those persons that are precluded by law could not—by law from possessing the firearms could not get one, to be sure of that they wanted to have a waiting period with a background check.

Now, the law prohibits possession of a handgun by a person addicted or an unlawful user of marihuana and certain other harder drugs. I know of no one or no evidence——

Senator MATHIAS. They are what is referred to as high-risk groups?

Mr. KNOX. I must submit for the record that there is no evidence that that is so, that that statement of high risk is a valid statement, to my knowledge. I have never seen any studies to support that general assumption, that that is a high-risk group; and I might add that Chicago's law, passed in 1968 requiring registration of all firearms, specifically exempts criminals from having to register because those persons are already precluded by law from possessing a firearm.

I found it fascinating this morning that Senator Kennedy read from a questionnaire that Senator Pressler sent out to his constituents that said, would you be in favor or opposed to a law that prohibited possession to dope addicts, mental incompetents, criminals. That section is on the books and has been for some years.

Senator MATHIAS. Well, now, getting to that poll leads me really to the last question, because this is one of the most controversial areas I think in relation to any kind of gun legislation. Just what does the public really think about it? It is, of course, necessary to define what you are talking about. As you and I both know, the way you ask a question in a public opinion poll can very largely determine the kind of answer you are going to get.

Mr. KNOX. Yes, sir.

Senator MATHIAS. I think Mr. Gallop or Lou Harris or one of the other well-known pollsters would support the contention that you have to be terribly careful to ask an objective question if you want to get an objective answer.

But what is your assessment of the state of the public mind with respect to handgun control? Perhaps I should be more specific—concealable handgun legislation? Is there any desire, do you see any desire on the part of the public for that?

Mr. KNOX. When you say "handgun control," that is itself a word that is not defined. To some people it means reasonable regulation in the form no one accepts, that no criminal should be able to buy one or possess one. It is "controlled." Someone would say control means you shouldn't be able to shoot someone with a gun. You are going to put him in jail. That is "control." Others would say——

Senator MATHIAS. I am ruling out for purposes of our discussion the registration, control, or prohibition against the use of long guns or control of any of those things that I think you and I would understand as being beyond the purview of Congress. I am just thinking now about some restriction on the availability of small concealable handguns.

Mr. KNOX. If I understand the question, you are talking about the prohibition of some handguns——

Senator MATHIAS. Not prohibition, some restraint on the availability of small concealable handguns.

Mr. KNOX. We have restraints on all firearms right now, and I am not sure when you say "restraint." I am trying to define this; I am not trying to be evasive.

Senator MATHIAS. Well, I suppose that since one piece of legislation is before us we might take the definitions in the Kennedy-Rodino bill just so we can be objective, so we can understand precisely what we are talking about.

Mr. KNOX. Even in that one, it prohibits——

Senator MATHIAS. And I have made no judgment on that. I am just using that as a standard here.

Mr. KNOX. If we can work from that point, then, that bill prohibits the manufacture or sale or transfer of handguns not suitable for sporting purposes. I don't know what that means, because I use a 2-inch barrel Smith & Wesson—strike the name—small handgun about so large that was designed as an undercover gun, I have carried that in hunting many, many times as a second gun.

I have carried it as a survival gun many, many times. So when they use the broad term "not suitable for sporting purposes," I don't know what that means.

Now, last year's bill that Senator Kennedy had was more precise. It would put into law the factoring criteria that was agreed upon after the 1968 act, although it was never made part of either the law or the regulation.

Now, that one is specific. It says, if a gun doesn't meet certain arbitrary criteria, size, type of safety, type of sights, type of grips, that it couldn't be produced, nor could it be transferred.

Now, what that means to me is that a certain type of handgun is prohibited from transfer, even a gift of that type of handgun from me to my son or children at the time I died. That would be prohibited by Senator Kennedy and Chairman Rodino's bill.

Now, I have not seen any polls that are carefully enough defined to really elicit a valid response, but I do know that in our own poll we found a contradiction in the attitude of the public.

We found that from various sources, Gallup, Harris, et cetera, they favor gun control. We also found in our poll, which was done by Decision Making Information, Richard Worthlin's outfit—very accurate——

Senator MATHIAS. Highly regarded.

Mr. KNOX. We found that 80 percent of the people believe that they have the right to own a gun if they want one. This would include a handgun, I think. And what I find in general is that most people are all in favor of gun control as long as it is for the other guy.

Senator MATHIAS. Sounds like budget control.

Mr. KNOX. You got it.

Senator MATHIAS. Well, we are going to have at the next session of these hearings testimony of some of the polling organizations who will look into the state of the public mind here.

In the material that you have submitted as part of your testimony, it is stated that an equally large majority opposed the outright ban on private handgun ownership, which is consistent with the statement that you just made.

Mr. KNOX. Yes, sir.

Senator MATHIAS. Although there is a majority assignment favoring the ban on manufacture and sale of cheap, low-quality handguns——

Mr. KNOX. I don't know where the source came from. I might add that everything that is in the material I submitted I don't necessarily agree with.

Senator MATHIAS. I am not charging you with that. But it sets up our objectivity that there are two sides stated in the material.

Mr. KNOX. Yes, sir.

Senator MATHIAS. And of course that again gets you to the question of definition: What is a cheap, low-quality gun? And that is part of the problem that we have to wrestle with. But we will have some additional—because I did not see that material until this morning.

Mr. KNOX. I apologize to you for not having gotten it here earlier. I didn't get through with it until 11 o'clock last night.

Senator MATHIAS. I understand those problems.

But it will take us a little time to get through it and, therefore, I hope that you will be willing to entertain some written questions, which we may frame from our review of that material.

Mr. KNOX. Be most happy to.

Senator MATHIAS. I would also advise you that we will hold the record open until the second hearing and if there is further supplemental information that you want to offer, we will be glad to have it.

Mr. KNOX. One suggestion, if I might, sir. These researchers whose work is represented by this stack of material that I submitted for the record are objective scholars. There is not one of them, with the possible—and I emphasize "possible"—exception of Dr. Blackman, who works for me, there are none of them with whom I would totally agree.

But I would submit that it would be to the great value of the committee to hear from such researchers who have probed the area, not what kind of gun law should be put into effect, but rather should we put it into effect; is there evidence it works.

Senator MATHIAS. Well, that is certainly one of the relevant questions the subcommittee has to probe. We will consider that as a possibility within the limited time that is available to us.

We appreciate that suggestion.

Thank you very much.

Mr. KNOX. Thank you very much.

Senator MATHIAS. Thank you for being here today.

We also have some questions of the Senator from Kansas, Mr. Dole, has asked us to propound to you for the record, and we will send those to you, along with the questions on behalf of the committee.

Mr. KNOX. Fine. Be glad to consider them.

[Responses of Mr. Knox to queries of Senator Dole follow:]

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NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

May 27, 1982

The Honorable Charles McC. Mathias, Jr.
Committee on the Judiciary
Washington, D.C. 20510

Dear Senator Mathias:

Reference is made to your letter of March 8, 1982, by which you transmitted questions submitted by Senator Robert Dole, with the request that written answers be furnished by the NRA for completion of the Subcommittee's record.

Let me preface the answers to Senator Dole's questions by reasserting the NRA's position that the Gun Control Act of 1968, and other statutes which place technical mala prohibita restrictions on the receipt, possession and transfer of firearms, do not diminish crime and are irrelevant to effective law enforcement, except in so far as they divert law enforcement resources from addressing violent criminal activities. It matters not at all, therefore, how these statutes, euphemistically termed "gun control" laws, are amended or revised since they do not address or purport to address, misuse of firearms. These laws merely provide a basis upon which to establish a bureaucracy, which then sustains itself by making technical cases against law-abiding citizens who do not misuse firearms, and who effectively become surrogate defendants for the misuser, who remains insulated from detection and apprehension.

I would also preface the answers to Senator Dole's questions with a statement of National Rifle Association policy with respect to S. 1030, the Firearm Owners Protection Act. The National Rifle Association will oppose any amendments to that legislation, either in Committee or on the Senate floor, which have not met with the approval of Senator James A. McClure and Representative Harold Volkmer, the principal cosponsors of the bill.

NRA's answers to Senator Dole's questions, which are to be read with reference to the above remarks, are as follows:

1. Question: Does the NRA favor lifting restrictions on imported firearms?

Answer: Yes, since the import restrictions in essence constitute protectionist legislation, their only significant effect is to deprive the American public of the ability to buy many quality firearms produced abroad. The restrictions make as much sense as forbidding the importation of foreign automobiles as a means of reducing the number of automobile accidents.

2. Question: Does the NRA favor lifting restrictions on military surplus?

Answer: Since we presume the question refers to the prohibition upon the importation of military surplus arms found in the Gun Control Act of 1968, the answer is yes. To do so would allow gun enthusiasts to acquire high quality firearms for target shooting, hunting and collecting. This prohibition is also basically protectionist legislation, and had been promoted by some domestic arms manufacturers for some 10 years prior to the enactment of the law. It is a pointless prohibition since there is no substantial difference between many of the bolt action military rifles which are precluded from importation and common domestic sporting rifles of the same type; large numbers of those surplus rifles were imported and "sporterized" prior to the 1968 Act, resulting in a high quality hunting rifle at relatively low cost. Some of the arms which are prohibited from importation are identical to new arms currently produced in the United States for the civilian market; an example is the Colt Government Model semi-automatic pistol.

3. Question: Since the 1968 Gun Control Act, interstate mail order sales have been prohibited to individuals, but intrastate mail order sales have been authorized subject to the affidavit procedure. Does the NRA favor the affidavit procedure for interstate mail order sales?

Answer: The NRA considers this affidavit provision of the Gun Control Act, no less than its other provisions, to be irrelevant to violent crime detection or prevention. It is obvious, moreover, that the prohibition on transfers between residents of different states has not reduced violent crime and could be eliminated without adverse effect. Thus, while an affidavit procedure for interstate mail order purchases would be preferable to the present outright prohibition, a better solution would be to eliminate the prohibition upon transfers between residents of different states when there is no violation of state laws, as proposed by S.1030.

4. Question: Would the NRA favor decriminalization of administrative or record-keeping violations of the Gun Control Act and replacing those sanctions with civil penalties, such as a fine, to be administered by U.S. Magistrates?

Answer: There is no body of evidence to show that firearms licensees keep their records any less efficiently or diligently than any other businessmen subject to government regulations, or that punishing licensees' failure to keep accurate records contributes to effective law enforcement or aids in reducing violent crime. Violations of the record-keeping provisions should certainly not be felonies; replacing them with civil penalties would be, therefore, a step in the right direction. The change would not, of course, guarantee that bureaucratic harassment of licensees would diminish.

5. Question: Should the Federal Firearms Act of 1938 (Title I of the Gun Control Act) be removed from Title 18 and placed back in the Commerce Code, where it was prior to 1968?

Answer: Codifying Title I of the Gun Control Act in another title of the U.S. Code would have no effect on current enforcement practices since the substantive provisions of the law would not change and it would remain an instrument of abuse of the nonmisuser of firearms.

6. Question: Would the NRA favor a permanent open season for the registration of National Act weapons, such as machine

guns? As you recall, there was a six month open season provided for by Title II of the 1968 Gun Control Act.

Answer: The question is premature. Before any consideration is given to such an open season or amnesty period for the registration of restricted firearms, there should be a complete examination by a disinterested outside contractor, perhaps under the supervision of this Subcommittee, to determine the extent to which the National Firearms Act registration records are inaccurate and incomplete. Documents obtained by NRA during a civil suit in the United States District Court for the District of Columbia (*United States* v. *Seven Miscellaneous Firearms*, Civil Action 1358) contained admissions by the Bureau of Alcohol, Tobacco and Firearms that the records were inaccurate and incomplete to the extent that the government, as part of its burden of proof in a criminal case, may not be able to prove beyond a reasonable doubt that a Title II firearm is not registered; to provide for the registration of additional Title II firearms would not change that fact.

Sincerely yours,

J. Warren Cassidy
Executive Director

Senator MATHIAS. The subcommittee stands adjourned, subject to the call of the Chair.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

HANDGUN CONTROL LEGISLATION

WEDNESDAY, MAY 5, 1982

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAW,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 2228, Dirksen Senate Office Building, commencing at 10:10 a.m., Senator Charles McC. Mathias, Jr. (chairman of the subcommittee) presiding.

Staff present: Michael Klipper, chief counsel; Charles Borden, professional staff assistant; Peggy Williams, legislative staff assistant; Linda Colancecco, chief clerk, Subcommittee on Criminal Law; and Kevin Mills, general counsel, Subcommittee on Juvenile Justice.

OPENING STATEMENT OF SENATOR CHARLES McC. MATHIAS, JR.

Senator MATHIAS. The subcommittee will come to order.

The Criminal Law Subcommittee of the Judiciary Committee is meeting today to examine what changes, if any, should be made in the Gun Control Act of 1968 regarding the availability of handguns and penalties.

Since the enactment of the Gun Control Act—and that was 14 years ago—numerous attempts have been made to control the criminal use of handguns, the illegal use of handguns. For example, in 1972 this committee, the full Judiciary Committee, I believe unanimously, although I am subject to correction by anyone who consults the record, approved and sent to the Senate and the Senate passed 2507, which had the principal goal of banning the domestic sale and manufacture of nonsporting handguns. More recently, Representative Rodino and Senator Kennedy introduced the handgun crime control bill of 1981, which would provide for a ban on the manufacture or sale of nonsporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun. Last August, the Attorney General's Task Force on Violent Crime, in its final report, made a number of recommendations in this area.

At our first hearing we heard from Prof. Philip Cook of Duke University, from Senator Kennedy, from Representative Rodino, and from Neal Knox of the National Rifle Association. Today we will continue our examination of handgun control. Our first witness will be Joe Albright of the Cox Newspaper Service, who has written extensively on the types of handguns used in crime. We will then hear from Pete Shields, the chairman of the board of directors of Handgun Control, Inc., who will be accompanied by Matt Fenton IV, who is a recent victim of handgun violence. Third, we will hear from Dr. James Wright of the University of Massachusetts, who, along with Peter Rossi, wrote the major study on gun control which was mentioned a number of times at the first hearing. Following him will be Dr. David Caplan, who has also written extensively on the issue. The final witness will be David Steinberg of the National Council for a Responsible Firearms Policy.

At this point I will call on Mr. Albright.

STATEMENT OF JOSEPH ALBRIGHT, NATIONAL CORRESPONDENT, COX NEWSPAPERS

Mr. ALBRIGHT. Good morning.

I am Joe Albright. I am a national correspondent for the Cox Newspapers.

Senator MATHIAS. Mr. Albright, let me just offer you this option. You have a written statement I see and that statement will appear in full in the record as if delivered. And I will say this to you and to the other witnesses who are to follow you. If you want to summarize it or otherwise stray from it, you have that privilege.

Mr. ALBRIGHT. Let me go on from the statement, but I will not read the whole thing.

I want to start by saying that we are very glad to accept your invitation to outline the findings of our series and to say that the series represents the work of four reporters in our bureau: Andrew Alexander, Cheryl Arvidson, Henry Eason, and myself, as well as researchers Diane Danielek, Janice Johnson, and Helen McMaster.

[The series of newspaper articles were reproduced in booklet form, titled "The Snub Nosed Killers: Handguns in America," and appear in the appendix.]

Mr. ALBRIGHT. This whole project started the night of the attempted assassination of President Reagan when I was standing in the corridor of the courthouse waiting for the arraignment of John Hinckley. It was quite a long wait for that arraignment and there were a lot of officials coming in and out of the corridor. One was an FBI official who came in and at one point said: Did you know that this shooting had been done by a typical Saturday night special? He went on to say that this was a Roehm RG14 that had been sold for $39. And then in the course of the next couple of hours as we waited, I started thinking that, as every other reporter in town did, that perhaps we ought to look further to find out where Saturday night specials were coming from, what their origins were, whether we could find out more about the source of the problem.

As we looked into it further we began to ask various police officers in various cities whether there was any pattern to the kinds of handguns that were involved in crimes. We found a lot of anecdotal material. Some officers had one notion of what the typical criminal handgun was and some would have other notions.

We found that there was not much in the way of firm statistical evidence that would give us the information that we needed. So, we set out to try as best we could to form a profile of what the criminal handgun in the United States is.

We found out that there existed at the Department of Treasury a computer base that contained all the handguns that are traced by the Bureau of Alcohol, Tobacco and Firearms. Through the Freedom of Information Act we were able to obtain the actual raw computer tape after they had taken out the names of the purchasers of the weapons and certain other identifying information. It was for two periods of time. One was for a 9-month period in 1979 and then another tape for a period in 1980.

We took this tape to a computer consultant and the consultant took the tape and was able to reshuffle the information on the tape and give us a series of printouts of approximately this dimension [indicating] that listed the approximately 17,000 handguns in these files by make, model, and serial numbers.

So, for the first time we were able to draw some conclusions as to the question of which kinds of guns are the most prevalent in various street crimes.

As you see here in our statement, and as I will not read, our main finding was that if you want to find one identifying feature that is common with most criminal handguns, it is the shortness of the barrel.

We talked to as many people as we could in the industry to find out what proportion of the existing stockpile of weapons consist of these snub-nosed guns. The best we could figure out by talking to the presidents of Smith & Wesson and Ruger was that perhaps a third of the current sales of all handguns are short-barrel snubbies. And yet our figures showed that approximately two out of every three crime guns recovered at crime scenes are of this category.

So, it seemed to us—and we said so in our series—that these short-barrel guns seemed to be more crime prone than the standard-size weapons that people would use for target practice or the normal weapons policemen use for their size arms.

We had kind of expected that we would find that cheap guns were more prevalent in crime than expensive guns. But we found that that was not the case; that both cheap and expensive guns of small proportions were prevalent in crime.

As you know, we went on to compile a list through our computer survey of, as we call them, the 15 leading crime guns. And as we went through that we found out that the first one was a gun made of imported parts, which was a snubby. The second one was about the same size, but it was made in the United States by a reputable and a fine American manufacturer. And we found that overall 11 out of the 15 leading crime guns were of these snub-nosed variety.

I think that is a summary of what I found.

Senator MATHIAS. In your written statement you come to this conclusion: That some kinds of handguns, newly acquired ones and those made to be concealed, are more prone to crime than others.

So that, if we were looking at legislation which would better control crimes related to the use of guns, we ought to look at the early acquisition and we ought to look at the snubbies, at the easily concealed guns. Would that be a fair conclusion to draw from your testimony?

Mr. ALBRIGHT. I feel somewhat awkward about offering advice about what you ought to do in the legislation.

Senator MATHIAS. All right.

But you are saying that you have found it as a fact.

Mr. **Albright**. We have found it as a fact, for instance, that in Miami where, as you know, there has been an explosion of street crime, if you take a look just at Smith & Wesson weapons, for instance, just within that small category, we find that 2 percent of the Smith & Wesson weapons distributed in Miami were snubnosed, and yet of the Smith & Wesson weapons found at Miami crime scenes 24 percent turned out to be snubbies. In other words, there is an incredible discrepancy there between 2 percent snubbies being distributed and 24 percent turning up in crime.

We find that the small and expensive weapons seem to be more prevalent in crime. As to what you ought to do about that or, in fact, ought to do anything about that, I think——

Senator **Mathias**. You will let us take the burden of that decision.

Mr. **Albright**. That is right. Among the people on our reporting team there would be a difference of opinion about what you ought to do, if anything.

Senator **Mathias**. You said that these small guns, newly acquired guns, seemed to be the ones that—I will use your own language—are more prone to crime than others.

That does not mean that all newly acquired guns and all concealable guns are necessarily used in crime.

Mr. **Albright**. No; I think the statistics would probably show that a very small proportion of that category of guns is actually used in crime. On the other hand, there is a proclivity, an increased tendency for guns of that nature to be involved in crime, even though statistically 1 out of every 100 guns in circulation is involved in a crime in a given year. And so, there would be a slight increased tendency of the small gun over the 1 in 100. Maybe that would be doubled or tripled. But still there are a lot of small guns in circulation that are not involved in crimes.

Senator **Mathias**. So that any attempt to limit the acquisition or use of these guns would also or might also have the effect of limiting the use of other guns that were not going to be used in crime on the basis of the figures you give us.

Mr. **Albright**. Yes; that is true.

Senator **Mathias**. Of course, you could draw analogies to other areas of human behavior that are limited by law on the grounds that a danger is created. One that comes to mind is the speed limit. We have a highway speed limit of 55 miles an hour. That does not mean that every driver who goes more than 55 is going to be a danger either to himself or to other people. But we know as a result of experience that some who go more than 55 are going to be a danger either to themselves or to other people. And, therefore, we make it a matter of law that no one can legally go more than 55 miles an hour.

Does that seem to be the kind of analogy that might apply as a result of your study of this subject?

Mr. **Albright**. Yes; and perhaps it is worth noting that we were told, and to the best of our understanding of handgun sales and use, these small, short-barreled guns have very little use in the target range or for hunting or for other purposes that are normally thought of as hobbyist use of handguns.

Senator MATHIAS. In our previous hearing we discussed concerns over the importation of unassembled handgun parts into the country.

What evidence, if any, did your study reveal on the impact of what has been called the "parts loophole" in the 1968 Gun Control Act on the manufacture of handguns and of parts both here and overseas?

Mr. ALBRIGHT. We looked, for instance, at the leading sources of handguns in 1979 and attempted to make a list of the 10 leading suppliers. And that list appears on page 8 of the booklet that reproduces our series.

But, for instance, it shows that the leading two suppliers of handguns were Smith & Wesson and Sturm, Ruger & Co. They are both American makers of American parts. The third leading was RG Industries of Miami, which imports parts and constructs them into handguns in the United States.

If you take together all of these figures that we found in this 1979 survey, I think it would turn out that something like 400,000 handguns out of 2 million maybe, give or take, were, as best we could find out that year, made out of imported parts. And there are probably another 200,000 in that year that were imported whole weapons.

So that we are talking about something in the range of 600,000 handguns out of 2 million that are from foreign sources.

Senator MATHIAS. Which is a massive arsenal.

Mr. ALBRIGHT. On the other hand, it is not the whole arsenal. And a great many of the crime weapons that are out there are domestic made.

One thing that you might note in looking at the list of leading crime guns is the at least apparent physical resemblance between some of the foreign guns and some of the domestic guns. If you, for instance, take a look at the Tanfoglio Titan, which is one of the principal imported made-out-of-parts guns, and take a look at the Raven made in California, they look and are, in fact, quite similar both in price and in quality.

I think that one thing you will have to consider is if the parts loophole is closed, it would not surprise me if other American manufacturers quickly grow up that can fill whatever gap there is in the market.

Senator MATHIAS. One final question, Mr. Albright.

There are some in this country—and Mr. Steinberg who will follow you later this morning I think is one of them—who have criticized the narrow focus of the gun control issue on just handguns and who argue that the overall public interest dictates a responsible regulation of private possession of all firearms. As, for example, is the case in Great Britain.

Do you have any plans to do a study on the use of long guns, rifles, and shotguns, in the future?

Mr. ALBRIGHT. As best we could find out the heavy preponderance of street crime in this country which involves firearms involves handguns. And we felt that to concentrate heavily on this made more sense.

I do not want to express a philosophical view as to what you ought to do about it. What we wanted to do was to find out where the crime was traceable; what was actually happening out in the streets now; and what guns were responsible for the bulk of the crime. And if you went back and looked at the evidence and found that a lot of rifles were being used, then that is a different problem. But at the time we looked at it we found that it was principally a small-handgun problem. People who are involved in crimes are using easily concealable small handguns, not rifles, not shotguns, and not Colt .45's, not Smith & Wesson full-size police specials. They are using small handguns.

Senator **MATHIAS**. Thank you very much, Mr. Albright. Your statement has been very helpful. We will study with interest some of the accompanying material that you have given us.

Mr. **ALBRIGHT**. Thank you. We appreciated the chance to present our findings.

Senator **MATHIAS**. And thank your associates who helped you on the study too.

[The prepared statement of Mr. Albright follows:]

PREPARED STATEMENT OF JOSEPH ALBRIGHT

I am Joseph Albright. I am a national correspondent for Cox Newspapers. We are glad to accept your invitation to outline the findings of our series last year on the nature of criminal handguns. This series represents the work of four reporters in the Cox Newspapers Washington Bureau: Andrew Alexander, Cheryl Arvidson, Henry Eason and myself, as well as researchers Diane Danielek, Janice Johnson and Helen McMaster.

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For more than a decade, the gun control debate in the United States has been bogged down over such issues as registration and confiscation of weapons and the question of people's right to bear arms. Much of the controversy resulted from a lack of basic information about what type of guns are actually used in crimes.

Our main finding was that snub-nosed guns -- both cheap and expensive, domestic and foreign made -- have proven to be the overwhelming choice among modern criminals. In the gun industry they are known as "snubbies."

What is a snubbie and how does it differ from a full-sized handgun? We defined it as any pistol or revolver with a barrel protruding no more than three inches beyond the cylinder. We chose three inches in order to be consistent with a chart entitled "Short-Barreled Snubby (sic) Specifications" published in August 1980 by the trade magazine "Guns & Ammo."

Besides having shorter barrels, snubbies are typically manufactured with lighter frames and slimmer handles so they can be more easily hidden. The snubbies we studied weighed an average of 19 ounces -- compared with full-sized handguns which typically weigh 30 ounces or more.

Snubbies don't get much use on the target range because they are by nature less accurate than standard sized handguns -- a drawback that is traceable to their short sight radius and slender grips, and also, in the case of larger caliber snubbies, to their comparatively strong kick.

"The National Rifleman," official publication of the National Rifle Association, said in an August 1981 article: "After several months of shooting, reloading and testing hundreds of loads, some conclusions can be drawn. The 2-inch barrel .38 Special revolver is inherently difficult to shoot accurately, and practice is a necessity."

Some have said it would be simple to convert any long-barreled revolver into a snubbie simply by cutting down the barrel with a hacksaw. The trouble is that many revolvers have cylinder rods that run along the underside of the barrel and lock against it. If you sawed off the barrel, you would -- in many cases -- ruin the mechanism for aligning the cylinder and the barrel. You would also, of course, lop off the front sight.

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What is the legitimate attraction for snubbies? This is what "Guns & Ammo" had to say in 1980:

"Consumer interest for short-barreled wheelguns is at a record high. Gun manufacturers just can't keep up with dealers' orders, and many wholesalers dangle these hot-selling tickets in front of a dealer's nose to entice them into purchasing slower-selling models.

Among the 15 leading crime instruments, the gun that registered the sharpest drop in the rankings between 1979 and 1980 was the Clerke First, a $30 .32 caliber snub-nosed revolver that went off the retail gun market in 1979 when the manufacturer went out of business. Another previously discontinued model, the .38 caliber Colt Cobra, also dropped in the crime gun standings between the two years.

Both in 1979 and 1980, our studies found the country's leading crime instrument was the Roehm .22 caliber snub-nosed revolver -- the kind of gun used in last year's attempted assassination of President Reagan. About 4 percent of the handguns in the United States are Roehm-origin .22s. In 1979, 7.9 percent of handguns traced in street crime cases were short-barreled Roehm .22s. In 1980, 7.2 percent were Roehm .22s.

A Roehm .22 is a typical Saturday Night Special by anyone's definition. The components are made in Sontheim, West Germany, by a privately owned German tool company, Roehm GmbH. The parts are shipped to Miami, where they are assembled onto American-made cast metal frames by RG Industries Inc., a firm owned by the principals of Roehm GmbH in Germany. Typically, a set of imported Roehm .22 parts carries a customs valuation of $7.15. The cast metal gun frame costs another $1. The assembled gun typically retails for $39.95.

We found that in both 1979 and 1980 the second-ranking criminal handgun was the .38 caliber Smith & Wesson Chiefs Special, a finely machined snubbie that sells in sporting goods stores for $170 to $240. It is a gun many policemen use as a concealed backup weapon. Only about 2 percent of the civilian handgun stockpile are Chiefs Specials. But in 1979 and 1980, the Chiefs Special figured in 5.9 percent of street crime cases in which a handgun was traced. In other words, the Chiefs Special in civilian hands is about three times as crime prone as a typical handgun.

In Miami, where street crime has risen dramatically in recent years, we found that Smith & Wesson snub-nosed handguns are far more crime-prone than full-sized Smith & Wesson handguns. During a nine-month period of 1979, authorities in Miami recovered and traced 157 Smith & Wesson handguns. Of these, 24 percent turned out to be the company's light-framed snubbies. Yet, the main Smith & Wesson wholesaler in South Florida, Sidney G. Davies, told us that no more than 2 percent of the Smith & Wessons he distributes are snubbies.

The size of a handgun is only one indicator of its criminal tendencies. Recently purchased guns of all sizes are more likely to be found at crime scenes than older guns. A tabulation by the Bureau of Alcohol, Tobacco and Firearms shows that 18 percent of crime guns traced in 1979 were a year old or less. The next largest category was two-year-old guns, representing 10 percent of the crime guns. After that, the percentages trailed off year by year. It was almost as if guns exuded a radioactive half-life as crime instruments.

Small handguns have been favored not only for obscure street crimes but also for the shootings that have convulsed the country.

President Ford was nearly assassinated in 1975 when Sara Jane Moore pulled the trigger of a Chiefs Special and missed. Mayor George Moscone of San Francisco was killed with a Chiefs Special in 1978. A year ago, Washington cardiologist Dr. Michael Halberstam was also killed with a Chiefs Special. Former Alabama Gov. George Wallace was paralyzed by a Charter Arms Undercover in 1972. Former Beatle John Lennon was murdered by an Undercover in 1980.

"Everyone wants a snubby. However, once purchased, they are rarely fired by the average citizen and seemingly never make a reappearance on the used gun market. These guns are typically stashed in bureau drawers, or left new-in-the-box and buried away in a closet....

"Most (police) departments make it mandatory that off-duty police officers carry a revolver chambered by the .38 Special cartridge. Most of the peace officers do not choose to carry their heavier and bulkier service revolvers, so naturally, they seek and buy snubbies."

What can be said about the use of snubbies by criminals? This is what we discovered when we analyzed the records of 17,000 handguns used in crimes in 1979 and 1980 in 18 major metropolitan areas, using methods described in detail in our articles:

Handguns of all sizes were instruments of 10,000 murders and another 550,000 crimes of violence in 1977. There are about 50 million handguns in circulation. So, on average, one out of every 100 handguns in circulation in the nation's private handgun arsenal is involved in a crime in a given year.

Based on our analysis, that one gun is likely to be a snubbie. We found that two out of three handguns used in murders, robberies, rapes and muggings are snubbies.

There is no way of knowing exactly what proportion of today's handgun stockpile is short-barreled. In an interview, William Ruger, president of Sturm, Ruger & Co., the second-largest U.S. handgun manufacturer, estimated that "perhaps one-third" of the 2.1 million handguns sold in 1980 had barrels three inches long or shorter. The president of Smith & Wesson, James Oberg, told us Ruger's estimate "could be about right."

Above all, criminals seem to prefer concealability. Of the 15 leading crime handguns in our 1979 survey, 11 had snub-nosed barrels.

Four of these snubbies were expensive, well-made guns manufactured in the United States by Smith & Wesson, Colt and Charter Arms and priced from $149 to $330. Three others were American-made low-budget specials, originally retailing for $30 to $90. The remaining four were inexpensive weapons -- priced from $40 to $80 -- that had been assembled by small plants in Miami from sets of gun parts shipped in from Italy or Germany.

Contrary to popular impression, most street crime guns are not cheap, low-caliber, foreign-origin "Saturday Night Specials." When we compiled lists of the 15 leading crime handguns, we were surprised to find that only two of the weapons on the list fit that exact description. They were the Roehm .22 caliber revolver and the Tanfoglio .25 caliber Titan pistol.

When we subsequently obtained the records on handguns traced in 1980, we analyzed them and found a remarkable consistency in criminal preferences. Again, 11 of the 15 leading varieties of criminal handguns were snubbies. All 11 had also appeared among the 15 top crime handguns in 1979.

The only newcomers on the 1980 list were two full-sized handguns, the Colt .45 automatic, which ranked 9th, and the Ruger .45 Blackhawk revolver, which ranked 15th. They replaced two other full-sized handguns that dropped from the top 15 on the 1980 list -- the Taurus .38 caliber standard revolver, which was No. 10 in 1979, and the Colt .38 caliber Police Positive revolver, which was No. 15.

Checking in historical archives, we found that since 1835, the weapons used in 10 out of the 15 assassination attempts on major American political figures were among the most readily concealable varieties then on the market. In addition to Reagan, Ford, Wallace and Moscone, Andrew Jackson, Abraham

Lincoln, William McKinley, Franklin D. Roosevelt, Huey Long and Robert F. Kennedy all were fired at with smaller than normal handguns.

In our reporting, we made an effort to get comments on our findings from the manufacturers and others.

Smith & Wesson president James L. Oberg was asked why the company sells small handguns in light of studies showing the prevalence of short-barreled guns as crime instruments. Oberg replied: "I sell the guns that the market is demanding. We don't have any category for people who are going to keep a weapon in their drawer, but we know they do."

Roehm export manager Karl Mack said: "This man could have attacked the President with a bomb or a knife or anything .... Somebody can make crimes with anything. Of course, it's easier to use a gun for crime."

On Dec. 4, three months after we published the 1979 gun tracing survey, we sent letters describing the preliminary findings of the 1980 survey to manufacturers of the leading snubbies, along with a request for their reaction. None responded, and follow-up telephone calls have failed to elicit their comments.

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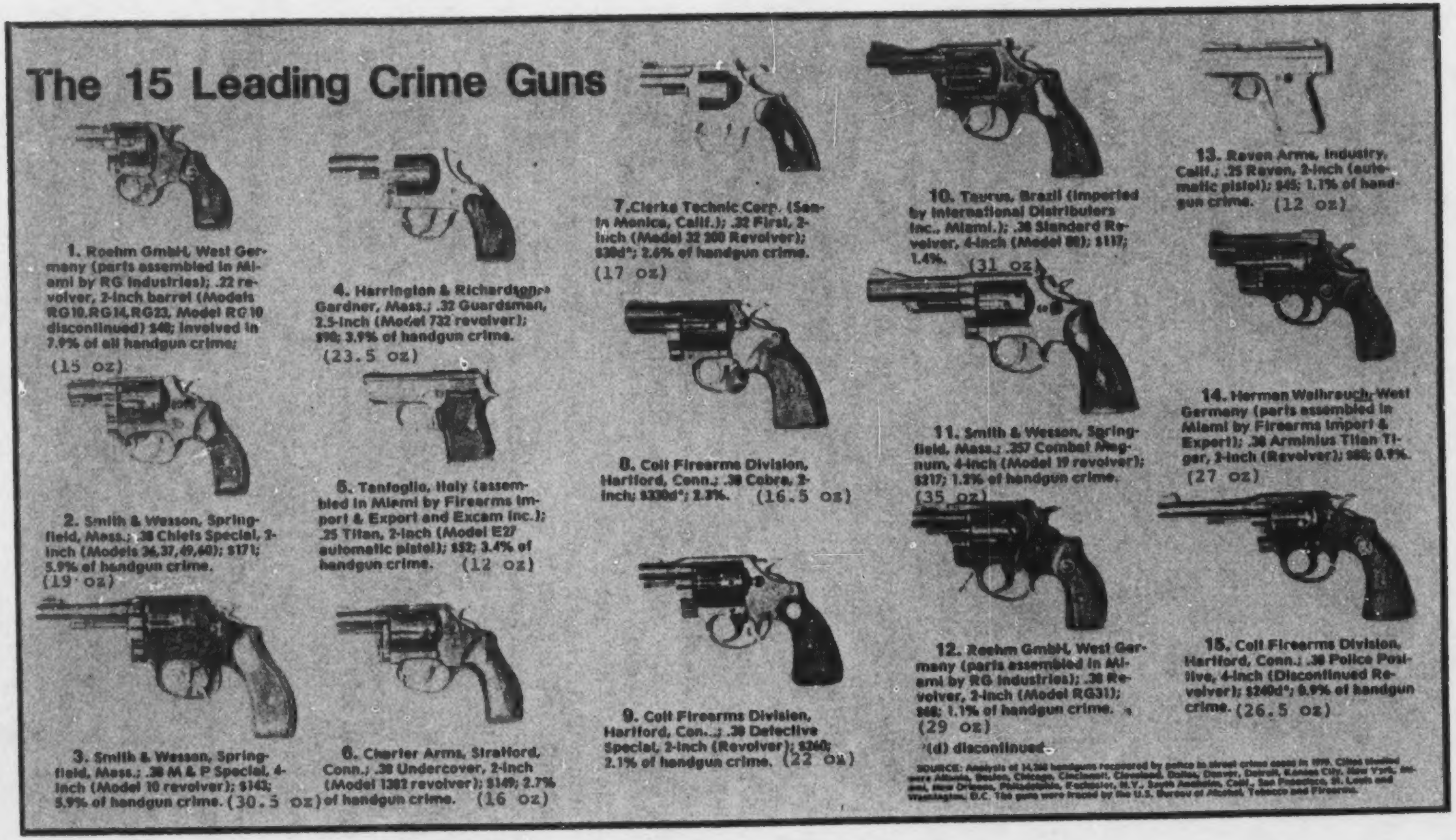
What comes out of all this is that some kinds of handguns -- newly acquired ones, and those which were made to be concealed -- are more prone to crime than others.

This disparity in criminal tendencies is wide enough to raise questions for those on all sides of the handgun control controversy.

For the ban-the-handgun crusaders: Instead of tilting at all handguns, why not concentrate on restricting those kinds of guns that are statistically shown to be crime-prone? Isn't a criminal record the best measure of whether a certain kind of gun should be freely sold?

For people who like to shoot handguns: Why fight to preserve palm-sized handguns when they aren't ideal for shooting burglars and they are almost useless for hunting and target practice? Why defend the right of fast-buck assembly plants to import gun parts and slap them together to make handguns no hobbyist would want to fire?



The 15 Leading Crime Guns

1. Roehm GmbH, West Germany (parts assembled in Miami by RG Industries); .22 revolver, 2-inch barrel (Models RG10,RG14,RG23, Model RG10 discontinued) $40; involved in 7.9% of all handgun crime;
(15 oz)

2. Smith & Wesson, Springfield, Mass.; .38 Chiefs Special, 2-inch (Models 36,37,49,60); $171; 5.9% of handgun crime.
(19 oz)

3. Smith & Wesson, Springfield, Mass.; .38 M & P Special, 4-inch (Model 10 revolver); $143; 5.9% of handgun crime. (30.5 oz)

4. Harrington & Richardson, Gardner, Mass.; .32 Guardsman, 2.5-inch (Model 732 revolver); $90; 3.9% of handgun crime.
(23.5 oz)

5. Tanfoglio, Italy (assembled in Miami by Firearms Import & Export and Excam Inc.); .25 Titan, 2-inch (Model E27 automatic pistol); $52; 3.4% of handgun crime. (12 oz)

6. Charter Arms, Stratford, Conn.; .38 Undercover, 2-inch (Model 1382 revolver); $149; 2.7% of handgun crime. (16 oz)

7. Clerke Technic Corp. (Santa Monica, Calif.); .32 First, 2-inch (Model 32 200 Revolver); $30d*; 2.6% of handgun crime.
(17 oz)

8. Colt Firearms Division, Hartford, Conn.; .38 Cobra, 2-inch; $330d*; 2.3%. (16.5 oz)

9. Colt Firearms Division, Hartford, Con..; .38 Detective Special, 2-inch (Revolver); $260; 2.1% of handgun crime. (22 oz)

10. Taurus, Brazil (imported by International Distributors Inc., Miami.); .38 Standard Revolver, 4-inch (Model 80); $117; 1.4%. (31 oz)

11. Smith & Wesson, Springfield, Mass.; .357 Combat Magnum, 4-inch (Model 19 revolver); $217; 1.2% of handgun crime.
(35 oz)

12. Roehm GmbH, West Germany (parts assembled in Miami by RG Industries); .38 Revolver, 2-inch (Model RG31); $66; 1.1% of handgun crime.
(29 oz)

13. Raven Arms, Industry, Calif.; .25 Raven, 2-inch (automatic pistol); $45; 1.1% of handgun crime. (12 oz)

14. Herman Weihrauch, West Germany (parts assembled in Miami by Firearms Import & Export); .38 Arminius Titan Tiger, 2-inch (Revolver); $80; 0.9%.
(27 oz)

15. Colt Firearms Division, Hartford, Conn.; .38 Police Positive, 4-inch (Discontinued Revolver); $240d*; 0.9% of handgun crime. (26.5 oz)

*(d) discontinued

SOURCE: Analysis of [illegible] handguns recovered by police in street crime cases in [illegible]. Cities studied were Atlanta, Boston, Chicago, Cincinnati, Cleveland, Dallas, Denver, Detroit, Kansas City, New York, Miami, New Orleans, Philadelphia, Rochester, N.Y., [illegible], Calif., San Francisco, St. Louis and Washington, D.C. The guns were traced by the U.S. Bureau of Alcohol, Tobacco and Firearms.

Senator MATHIAS. Our next witness is Mr. Shields, chairman of Handgun Control, Inc., who is accompanied by Matthew Fenton IV.

STATEMENT OF N. T. "PETE" SHIELDS, CHAIRMAN OF HANDGUN CONTROL, INC., ACCOMPANIED BY MATTHEW FENTON IV

Mr. SHIELDS. Thank you, Mr. Chairman.

I am Nelson T. "Pete" Shields, chairman of Handgun Control, Inc., a national citizens' lobby founded by victims of handgun violence, like myself and Matt beside me. We now number more than 700,000 Americans.

I welcome the opportunity to testify before you today in full support of S. 974, the handgun crime control bill, introduced by another victim of handgun violence, Senator Edward Kennedy. This bill is directed solely at handguns, the primary weapons of crime and violence, as we have just heard, and not at rifles and shotguns, the primary weapons of sport and hunting. It is a bill clearly directed at keeping deadly handguns out of the hands of the criminals, the mentally ill, the drug addicts, and putting behind bars felons caught with such guns.

I would like to take this opportunity, Mr. Chairman, to thank you, Senator Kennedy, and the other courageous members of the Senate who have long waged the fight for tougher handgun control laws; a fight to save American lives, lives taken or threatened by handguns; lives of young people like our son Nick, who was shot down on the streets of San Francisco without warning, without even seeing his assailant or the deadly Saturday night special his killer used.

Since Nick's death, my wife, Jeanne, and I have dedicated our energies to reducing America's tragedy of handgun violence and reducing the probability of other families suffering similar losses to a handgun in the wrong hands.

Some might say I am an unlikely spokesman for tougher handgun control for I am a sportsman and a hunter and I own several shotguns. I am a conservative businessman from big industry, leery of Government regulation. I am a veteran of World War II who has defended America with his life.

But in reality it should be no surprise, for every national opinion poll ever taken since the 1930's shows that the vast majority of Americans overwhelmingly support the strengthening of our Nation's absurdly weak handgun laws. It is simply commonsense. Just by reading their newspapers, Americans can see what America's handgun arsenal is doing to our society.

On the average day, at least 50 Americans are killed by handgun fire. That is over 20,000 handgun deaths each and every year. But that is only the count of Americans killed in our handgun war. On an average day 700 other Americans are raped, robbed, assaulted, or wounded in handgun attacks. That is over 250,000 human beings put in fear and terror each and every year in America.

As America becomes more urbanized, and continues to pour 2 million more handguns into our society each year, the handgun cancer will continue to spread and grow. By the year 2000 we will have approximately 100 million handguns in our domestic arsenal. We will be a society at war with ourselves, in fear of ourselves.

As Americans become increasingly concerned about the threat of nuclear war, they are also understanding the threat from within; the threat of America's handgun war.

Yes, war is a proper analogy for America's domestic violence is far worse than our most recent foreign war. During the Vietnam war, more American civilians were murdered with handguns here at home in America than American soldiers killed in action in Vietnam. And I repeat, that is murder. That is not accidents or suicides. And that is handguns. That is not rifles and shotguns.

My son Nick did not die in Vietnam. He died right here at home, along with 20,000 other Americans that year. And 20,000 will die by handgun fire this year, and next year, and the next, and until Congress does something to finally stop America's handgun war.

I wonder, Mr. Chairman, what opponents of handgun control in the Senate would say if, like good commanding officers, they had to write to each handgun victim or surviving relative. What would they say to the mother of a murdered child? To the woman raped at gunpoint? To a retired couple robbed of their social security check? To the family of a child who, thinking his father's handgun is a toy, blows away his childhood friend? How many times would they, how many times could they, say "I am sorry." How many times could they tell those childrens' parents "Guns do not kill; people do"?

And how is it possible for some of your colleagues to say, "Gun laws do not work?" I urge them to look at the other countries for guidance and example. For in 1979, handguns killed 48 people in Japan; 8 in Great Britain; 34 in Switzerland; 52 in Canada; 58 in Israel; 21 in Sweden; 42 in West Germany; and murdered 10,728 in the United States of America. Each of these countries has strong handgun laws, except the United States. And they are freedom-loving democracies like ourselves. No Communist government has overtaken them because of their responsible handgun laws.

Your colleagues are well aware that six Presidential Commissions, as well as the Reagan administration's Task Force on Violent Crime, have urged Congress to pass tougher handgun laws. Our Nation's leading law enforcement organizations—the Police Executive Research Forum, the International Association of Chiefs of Police, and the National Association of Attorneys General—also support tougher handgun control laws.

Mr. Chairman, I am pleased to see that your colleagues are beginning to listen. For a few weeks ago, the full Senate Judiciary Committee reported out a modified McClure-Volkmer bill, S. 1030, which contains two important handgun control amendments, almost identical to two of the most important features of S. 974: a 14-day waiting period for a criminal records check before a handgun may be purchased; and a mandatory 2-year jail sentence for using a handgun in the commission of a felony. The adoption of these amendments was the first positive step for handgun control in the Senate since 1972, when a bill was passed in the aftermath of the shooting of Gov. George Wallace.

But a year ago our President was shot and nearly killed by a handgun. That would-be assassin bought his snub-nosed handgun at a Dallas pawnshop with practically no questions asked and brought it concealed all the way across the country to Washington, D.C. I congratulate the Judiciary Committee on accepting these two important parts of S. 974, but I urge you, Mr. Chairman, to consider the rest of the bill's major features in light of this nearly disastrous handgun attack on our President.

The handgun waiting period, now included in both S. 974 and S. 1030, has two important features: First, it would provide an opportunity for law enforcement officials to insure that the prospective purchaser was who he said he was and did not have a criminal record, a history of mental illness or drug addiction, was at least 21 and was a State resident. Second, it would provide a "cooling off" period for individuals intent on buying handguns to commit crimes of passion. As the President's alleged assassin was not a Texas resident, he would have been barred from buying his handgun there if S. 974 had been in effect and given the law enforcement community a chance to check him out before his purchase. Other features of the Kennedy bill would also have helped prevent that shooting of our President.

Under S. 974, the manufacture and sale of Saturday night specials, or snubbies, as the Cox newspaper study calls them, would be prohibited. Hinckley's handgun was a snubbie, a 2-inch barrel RG14 assembled from imported parts in Florida, and concealable enough to be carried right into the President's entourage of bodyguards without detection.

S. 974 would tighten the criteria for becoming a handgun dealer, and bar pawnshops from selling handguns. Hinckley bought his handgun at a pawnshop.

Mr. Chairman, if S. 974 had been in effect at the time it would have significantly reduced the probability of Mr. Hinckley being able to acquire that, or any, handgun.

But the Kennedy bill would do more. It would encourage States to pass license-to-carry laws similar to the Bartley-Fox law in Massachusetts, which mandates a 1-year jail sentence for anyone caught illegally carrying a handgun.

A study by the Center for Applied Social Research at Northeastern University has shown that the law is saving lives. Connecticut and New York have adopted similar carrying laws, while Maryland, California, and Ohio have proposals along these lines pending.

In line with the recommendations of the Attorney General's Task Force on Violent Crime, S. 974 would also require handgun manufacturers, dealers, and owners to report thefts or losses of handguns. A large percentage of handguns used by criminals are stolen—as was the handgun used to murder Orlando Gonzales-Angel here in the District in 1978. It was stolen from the headquarters of the National Rifle Association.

The Kennedy measure, in an effort to protect the rights of law-abiding sportsmen and gun owners while providing for strong enforcement of tough handgun laws, calls for transferring the enforcement responsibility from the Treasury Department to the Department of Justice. But since the introduction of S. 974 the administration has examined enforcement alternatives of these laws and determined that this responsibility could best be carried out by the Secret Service. Senator Kennedy now backs such a transfer, as does Handgun Control, Inc.

Even though two of S. 974's strengthening provisions have been added to Senator McClure's S. 1030, that bill still contains features that would severely weaken our Nation's handgun laws. It would make possible unregulated and unrecorded interstate sales. It would help pawnbrokers avoid dealer licensing. It would wipe out much of the current recordkeeping system. It would make dealer inspections by law enforcement agents far more difficult. In effect, it would severely weaken our ability to trace handguns used in crime and to curtail illicit interstate trafficking.

Mr. Chairman, this weakening of our Nation's gun laws must not be allowed to apply to handguns, the primary weapons of crime and violence. To that end, I understand that Senator Kennedy will offer an amendment to this bill to apply its weakened restrictions only to rifles and shotguns, and not to handguns. Senator Kennedy will also offer amendments to include the handgun provisions of S. 974 in that bill to strengthen rather than weaken our current handgun law. I urge the full Senate to adopt Senator Kennedy's amendments when they are presented on the Senate floor.

Your colleagues are no doubt aware of the growing handgun violence which has prompted a groundswell of public outrage across the country. Simply put, Americans are fed up with the handgun violence that is changing our lives and changing our country. And, to understate their outrage, they are growing impatient with congressional inaction.

This explosion of State and local action shows that our citizens recognize the difference between handguns and long guns. They know that handguns are used by criminals; that long guns are used by hunters.

And that is the message I deliver to you and your colleagues here today. Individual messages from over 500,000 American voters who have joined our crusade since President Reagan was shot just over a year ago. There are 500,000 more concerned citizens who care enough to demand handgun control action from their Congress. Their specific message on each of the 500,000 coupons in these boxes right here that I present to Congress today is as follows:

> To: The U.S. Congress.
>
> You work for me. So I want you to know that I favor national control of handguns—now.
>
> Enough is enough.
>
> Please care. In the name of God, please care.

Fourteen years ago, Senator Robert Kennedy said:

> The victims of the violence are black and white, rich and poor, young and old, famous and unknown. They are, most important of all, human beings whom other human beings loved and needed. No one—no matter where he lives or what he does—can be certain who next will suffer from some senseless act of bloodshed. And yet it goes on and on and on.

Two months later he himself was shot down by an assassin with a .22 caliber Saturday night special.

In the following years Governor Wallace, Senator Stennis, and President Ford all became targets of handguns in the wrong hands. Then, just a year ago, President Reagan, James Brady, Timothy McCarthy, and Thomas Delahanty were almost killed. And yet it goes on and on and on; 20,000 Americans each and every year. How many more must we bury; who must we bury; before the Congress acts? A hundred thousand more average ordinary citizens? Another Congressman? A Senator? Or another President?

For each hour the American handgun war continues, one more American will join our Nick. And whoever is next, famous or unknown, rich or poor, it will be one more human life, one more human tragedy for the living, and one more epitaph to America's greatness.

The American handgun war was not one declared by Congress. But if Congress cares, cares enough, the Congress has the power to stop it.

Please care. In the name of America, please care.

Thank you.

Senator **Mathias**. Thank you, Mr. Shields. [Applause.]

I think we all share a sense of emotion to Mr. Shields very eloquent statement, but there will be no demonstrations in the room.

Mr. Fenton.

Mr. **Fenton**. Senator Mathias, I want you to know how much I appreciate having the opportunity to speak here today.

I am lucky to be alive. I am a survivor of a handgun attack; one of more than 250,000 handgun victims last year. I am 30 years old and live and work in Baltimore.

I am speaking here today to urge you to report favorably S. 974, the Kennedy-Rodino handgun crime control bill. This bill, a modest proposal to strengthen existing Federal handgun laws, will send a message to criminals: illegal handgun carriers go to jail.

I had always been supportive of handgun control. But last September 18 an event occurred that changed me from a passive to an active supporter, an event that will stay with me always. On that warm, late summer evening I was attacked by two unknown assailants. They held me up, robbed me, and shot me in the head.

If the bullet had hit my head a few millimeters lower, I doubt that I would have been able to tell my tale. As it is, I have undergone two brain operations. I have been twice hospitalized, staying there for over a month in all. I was off work 4 months. And I still cannot be certain there will be no future complications. I am lucky that, aside from the physical scars left on my head, I am here and apparently fully recovered.

People have often asked me just what it is like to get shot. It is hard to say because, to be honest, my memory of the shooting itself is rather hazy. I can tell you what happened, what I felt, but my recollection of the exact moment the handgun was fired is not clear.

On that warm pleasant September evening, around 9 o'clock I was walking in the Bolton Hill section of Baltimore to meet my girlfriend and take her to the movies.

Just outside her building two young men stopped me and asked for directions. The next thing I knew one of them pulled a handgun and pointed it right at my face. Long ago I had decided that I would offer no resistance if I was ever robbed. My life is more important than a few dollars. And, even if I had been carrying a gun, I would have had no chance to use it. I had been taken by surprise; my attackers moved so quickly. I first realized I was in danger when one of them, standing 8 feet away, was aiming his pistol right at me. So, without further ado, I handed over my wallet as calmly as I could. The guy without the handgun then searched me. Finding nothing further—no weapon, et cetera—he stood back. We stared at each other for what seemed like an eternity, but was really only a few seconds. To break the impasse, I said, "OK. You got what you wanted. Why don't you just leave?" The gun then was fired.

I remember a bright flash. I heard an explosion. I did not immediately feel any pain. But I do remember falling to the ground and trying to stagger to my feet. I got up somehow, but fell again. And before I could rise a second time some neighbors came and told me to stay still. They helped me lie down atop a wall where I could stretch out in moderate comfort. I was temporarily blinded by blood in my eyes. But I could hear clearly and was aware of many people around me.

The police arrived in about 2 minutes and an ambulance came in about 10. I stayed calm and did not panic. I felt, without thinking, that others would do all that could be done for me. My main fear was that my girlfriend would panic. I was afraid that my shooting might be too much for her to take. But I am happy to say I was wrong. She is really a pretty strong person.

Thankfully too, Baltimore has excellent medical facilities. I was taken to the shock-trauma unit of the University of Maryland Hospital, where an expert medical team examined me. They determined that while I was in no immediate danger, I should have emergency brain surgery to remove skull fragments. The bullet had bounced off my head just beyond the hairline above my left eye. It had shattered about 1 square inch of skull forcing fragments into the brain. Some pieces reached as low as eye level.

It would take many hours to describe in detail all that happened since the shooting. I will just say that the discomfort of the shooting itself was minor compared to the ordeal of recovery. The emergency operation, lasting about an hour and a half, appeared successful at first and I was released in 4 days.

However, soon I began to have constant headaches. After a month my doctor discovered a large brain abscess had formed beneath the wound, indicating that infection had set in.

I had to return to the hospital where I underwent a second, more serious operation. The first one happened so quickly I did not have time to get scared, but the second was much different. I had to wait 2 weeks in the hospital to be treated with antibiotics to make sure that the wall of the abscess, which was about so big [indicating], the wall of it would be thickened enough that it would not be likely to burst in surgery. Burst brain abscesses are generally not survivable, so I have been told.

Before the operation I had to sign a release stating that I was aware of certain possible complications from surgery. Besides the normal dangers of anesthesia, et cetera, my operation had some particular dangers which the doctor explained. For instance, I could have lost my vision. I might have lost some of my language skills, which to me was especially alarming. Having lived in France and Germany, I speak French and German very well.

Fortunately, none of these complications occurred. The operation, lasting about 5 hours this time, turned out to be successful.

After another 2½ weeks of hospitalization, I was rereleased, permanently this time, I hope.

The total cost in medical expenses will be well above $20,000, most of which is covered by insurance. All of this is for an injury that need not have occurred. I have to say that I will always be grateful for the care provided me by the nurses and doctors at the University of Maryland Hospital.

Something must be done now to put an end to this senseless handgun violence. No place in America is safe today from handgun carriers. I was shot in the city. But in the last few months there have also been handgun murders in the suburbs of Baltimore, as there have been in places all over the United States. This handgun cancer is spreading and it must be stopped.

Handgun violence affects everyone; you, your family. Those that escape being shot cannot escape the fear: The fear that they cannot walk the streets safely at night; that they should avoid certain areas; that they might be surprised anytime, anywhere. It is a fear that did not exist in Europe, where I lived. In Paris and in Hanover, West Germany, I could walk the streets in any part of town, anytime of day, without worry. There the inner city is the most desirable place to live. It could be here, too, if it were not for the fear of handgun violence.

I am just one of hundreds of thousands of handgun victims. And my life has been disrupted unnecessarily. I have been left with physical scars. I have the lasting nightmare of a handgun attack. I believe I might have had a chance had I faced a knife or a blackjack. But against a handgun I had no chance. These street thugs were going to murder me for $40, and they are still at large with their handgun.

Let us put these handgun carriers behind bars. You have the power to do it. Senators, please report S. 974 favorably. Put it to a vote on the Senate floor. Do not let a small group of lobbyists, such as the NRA and other prohandgun groups, overwhelm. Pay attention instead to the overwhelming majority of Americans who want a stop to handgun violence now.

Thank you.

Senator MATHIAS. Thank you very much, Mr. Fenton.

I think it is a very compelling and moving account of an actual attack by a handgun. And we are just glad that you are here to tell it.

Mr. FENTON. So am I.

Senator MATHIAS. Mr. Shields, how did these 500,000 petitions, letters, come to be collected and to be brought here today?

Mr. SHIELDS. We started the week after President Reagan was shot, the first week of April, and we ran a full page ad in each of the top 25 newspapers in the country, which had the coupons that are in these boxes as part of that ad. And we got roughly 300,000 responses to that ad.

Then we sent back to those 300,000 people that responded to that a postcard that was the same as the ad and said: Look, take these postcards out and get five of your friends to sign them.

So, each one is an expression from average ordinary citizens.

You mentioned my remarks and you said it was a strong message. I can only emphasize that the message I give today is a message from the American people, from these 500,000 people who do care enough. And that was the key to the message.

We know that roughly 80 percent of the Americans in this country want stronger handgun control, but here are 500,000 that have said and are demanding action from their Congress because they care enough to act.

Senator MATHIAS. They seem to have come from a variety of sources. This one looks as though it is clipped from a newspaper or publication.

Mr. SHIELDS. We had several people who reproduced our ad in several ways and ran it on their own. So, we got a variety of coupons in various forms.

Senator MATHIAS. This one seems to be another publication, clipped from another publication. These are the postcards that you mentioned.

As you could see, I just took them just now at random from the top of that box. Here is one from Portland, Oreg. Here is one from Dallas, Tex. Here is one from Golden Beach, Fla. Here is one from Washington, D.C.

Mr. SHIELDS. They are from all across the country. The top 25 papers in the country, of course, spread across this whole land.

Senator MATHIAS. Let me ask each of you this question because I think it goes to the kind of psychology both of the Congress and the country in contemplating the whole subject of firearms.

You mentioned, Mr. Shields, that you have a gun; that you are a hunter; that you are a sportsman. So, I assume you think that there are some legitimate reasons to own a firearm.

Does Handgun Control, Inc., recognize any legitimate reasons, sports related or otherwise, for private citizens to own firearms?

Mr. SHIELDS. Yes.

I, of course, would love to live in a society that we did not have any handguns in it because we recognize a handgun is the primary weapon of crime and violence. I do not believe the handgun is an effective or a usable hunting weapon as some people would say. Certainly there are some specialists who do hunt with handguns, but that is very, very small, and balanced against the trauma that handguns create in this society, is meaningless, as far as I am concerned.

I recognize that a high preponderance of the public, the owners of handguns, have that handgun in that bedside table drawer for self-defense reasons. I would not try to take that handgun away from them, or to confiscate that handgun. I would try to educate it away from them because all studies have shown that the handgun as a self-defense weapon has something like five times higher probability of injuring a member of the family or friends and neighbors than it does in warding off some prospective assailant. But I would not try to confiscate that gun from law-abiding citizens. They have it there because of fear; fear of the violence in our society. And we are a violent society and the handgun is part of that violence.

It is a vicious circle that we are involved in. There is violent crime which causes people to go out and arm themselves, which causes more violence, because every study has shown that the higher the population of firearms in a given society, the higher the firearm crime rate. So, crime goes up and there is a higher population of guns, of people going out and buying them. It is a vicious circle and we have to break that circle.

Senator **Mathias**. How do you feel, Matt?

Mr. **Fenton**. I would rather see no handguns at all. But I do recognize that there can be some uses as long as there is a proper safeguard who the people that have the handgun are responsible citizens.

In contrasting this country with those in Europe where I lived, it is possible for a person to have a gun there if he or she is a sportsman or really needs it for legitimate protective reasons. But the laws are written to protect all citizens. One that I know of in England allows a person to have a handgun, but he has to store it at his home in one place and the ammunition must be in another place. Also when he gets his permit to keep the handgun he signs a statement to the effect that the police could come in at any time of day or night to make sure that the gun is stored properly.

So, I think under circumstances like that you would not have too many problems with handguns. If you had a legitimate reason and if you are a reasonable person, you should be allowed to have one.

Mr. **Shields**. Referring to Matt's comment about the foreign countries where he has lived and what their laws are, essentially all of the developed countries of the world have far stricter handgun control law than we do. And it is essentially an adaptation of the Kennedy-Rodino handgun crime control bill: strict accountability for who owns a firearm and basic licensing which checks everybody out. And that is the heart of the Kennedy-Rodino handgun crime control bill.

Senator **Mathias**. Following what both of you have just said, I recall Neal Knox's testimony here some weeks ago in which he felt that the standard in the Kennedy-Rodino bill was vague; that merely to say guns not suitable for sporting purposes was not an adequate definition.

What would you feel about that?

Mr. **Shields**. That terminology was picked up word for word from our current law, the 1968 Gun Control Act, and it was used in that bill specifically because it was used in the predecessor, that is, not wanting to change that definition.

I am not sure the definition of "a non-sporting firearm" in the 1968 act, which is based on that factoring criteria, is necessarily the best one. But it was our advise not to argue about it; it is close enough.

In my personal judgment I would use a definition like the Cox Newspapers "snubbies" position. I think it is concealability that is the key, not whether it is an expensive gun or a cheap gun. And, of course, the present criteria has a lot of those quality mechanisms built right into it.

So, in my book the definition of a "Saturday Night Special" or a "non-sporting handgun" should be based on size and concealability.

It is interesting. There is one study that has been made that there is very little reference to. But because Joe Albright referred to Miami, a Professor Burr at the Florida Technological University did a study of handguns in the Florida area and he went into the prison records to find out the types of handguns that were used by the inmates of the prisons who had been put in prison for some gun crime. And then he also interviewed the law-abiding citizens in Florida to find out what type of weapon they had. And basically 70 percent of the weapons that were owned by the criminals put in jail were the 3-inch snubbies. He used the same criteria—3 inch—that Mr. Albright did. Approximately 10 percent of the guns owned by law-abiding citizens were these types of snubbies.

So, there is a broad discrepancy of the type of gun that is wanted by the potential criminal versus the law-abiding sportsman and homeowner.

Senator **Mathias**. In the 1972 Senate bill, which almost became law—it did not quite—the thrust was against the Saturday night specials.

Now, is that still a valid goal or, in your judgment, in the intervening years has the problem grown so that that is no longer really an adequate target?

Mr. **Shields**. I think the word "adequate" is appropriate. I think it is a piece of the legislation that is needed. These guns, the "non-sporting handguns," the "snubbies," what have you, are ones that are essentially only used in crime and violence. They are the preferred weapon of crime and violence. And we ought to get those off the street.

But, along with that I think we ought to raise our country's standard of accountability and responsibility for those who own, carry, or use, any handgun. And that is essentially what the Kennedy-Rodino bill tries to do. It tries to raise that standard of accountability and responsibility.

Let us face it. That is all registration and licensing is. It is the law-abiding citizen saying: I want to own this deadly weapon that I know has a potential for misuse. So, check me out. And when you find out I am a law-abiding citizen and a responsible citizen, put my name down next to the number of that gun. And if that gun is ever misused, you know who to come and get.

Now, that is good citizenship and that is what this bill tries to write into law.

Mr. **Fenton**. I might add that the gun that shot me was a .32, determined by analyzing the bullet. And I do not think it was terribly accurate. And I think it was pretty cheap too. I doubt if those two thugs could have afforded a very expensive gun. Which was lucky for me. That plus my impression that they were bad marksmen may have been the difference between a survivable and a fatal wound. If the gun had been more accurate, I am sure I would not be here.

Senator **Mathias**. So, that is at least still a legitimate goal—to control the Saturday night special, the cheap handgun—while we are also considering the larger problem.

Mr. **Shields**. I agree with you, except I would change the word "cheap" to "most concealable."

Senator **Mathias**. I have just one final question.

The Rossi-Wright study, which I am sure you are familiar with, seems to say that the evidence accumulated to date is not conclusive one way or the other about the effectiveness of handgun control.

I think one of the greatest frustrations that people have is when a law is passed that does not really do anything. It raises expectations, but does not achieve its purpose.

What comments do you have on that subject?

Mr. SHIELDS. When I saw their report, which essentially said in their summary—because I have not read the whole 6-inch thick total report—that there was no definitive evidence that handgun control laws or new handgun control laws would reduce crime and violence, I wrote to the witness that you had here just a few weeks ago in the earlier hearing, Prof. Philip Cook from Duke University, and I got a letter back from him. Let me just read an excerpt from it because it addresses that exact question:

> I completed a careful review of the same body of literature [that Mr. Wright and Mr. Rossi did] in 1980 and I made many of the same criticisms that they later included in their review. In my view, however, there is work that deserves serious attention, especially Zimring's papers on objective dangerousness, my work on gun availability and robbery outcomes, Pierce & Bowers evaluation of the Bartley-Fox amendment in Massachusetts, and a variety of less systematic observations by criminal justice system officials.
>
> Indeed, Rossi and Wright accept my conclusion that gun availability is closely related to robbery, murder rates. They are not as convinced by Zimring's empirical work, but they do not deny the plausibility of Professor Zimring's conclusions.
>
> Proper use of Rossi and Wright's work in the policy process requires an understanding of their orientation. They are writing from a scientific viewpoint. The scientific method requires that the scientist begin an investigation with some hypothesized relationship as an agnostic and not budge from that position until confronted with overwhelming evidence that the relationship exists, in fact. The scientist does not offer his "best guess" about the question at hand, but rather waits until very strong evidence has been accumulated before making an assertion.
>
> A useful analogy is criminal procedure. The criminal court is to cling to the presumption of innocence until very strong evidence has been presented to the contrary. This procedure for evaluating evidence is not appropriate in policy arena because policymakers do not have the luxury of scientific agnosticism. Perhaps the appropriate analogy for them is the civil standard of preponderance of evidence. Rossi and Wright do not give us their best guess about whether handgun control is potentially efficacious.

I think you are seeing—and, of course, Mr. Wright is with us today—a pure scientific evaluation. You notice I used in my testimony the word "commonsense." Every layman commission—I say "layman" even though there are law enforcement people on them, every one of them—has found that there are three definitive things that need to happen if we are going to reduce violence and violent crime in this country: Get tough with the criminal. Straighten out the revolving door justice system. And reduce the easy access to handguns in our society.

Every single commission has found that.

[The letter from Professor Cook, in its entirety, follows:]

DUKE UNIVERSITY,
INSTITUTE OF POLICY SCIENCES AND PUBLIC AFFAIRS,
Durham, N.C., November 24, 1981.

Mr. NELSON SHIELDS,
Handgun Control, Inc.,
Washington, D.C.

DEAR PETE: My knowledge of the report by Rossi and Wright is based on a careful review I did of their preliminary draft. I have not seen their final draft.

Rossi and Wright put together a highly critical review of the empirical literature relevant to evaluating gun control regulations. They find that most of the empirical studies are unpersuasive; the authors, in their view, reach conclusions that are not strongly supported by their data. Rossi and Wright do not limit their criticisms to research that tends to favor gun control measures—they are equally unpersuaded by empirical findings that appear to undermine the case for gun control.

I completed a careful review of the same body of literature in 1980, and I made many of the same criticisms that they later included in their review. The fact is that much of the research in this area is virtually worthless and can be ignored by policymakers. In my review, however, there is some work that deserves serious attention, especially Zimring's papers on objective dangerousness, my work on gun availability and robbery outcomes, Pierce and Bowers' evaluation of the Bartley-Fox Amendment, and a variety of less systematic observations by criminal justice system officials. Indeed, Rossi and Wright speak approvingly of my work and accept my conclusion that gun availability is closely related to the robbery murder rates. They are not convinced by Zimring's empirical work, but they do not deny the plausibility of Zimring's conclusions.

Proper use of Rossi and Wright's work in the policy process requires an understanding of their orientation. They are writing from a scientific viewpoint. The scientific method requires that the scientist begin an investigation of some hypothesized relationship (e.g., increased gun availability increases the murder rate) as an agnostic, and not budge from that position until confronted with overwhelming evidence that the relationship exists in fact. The scientist does not offer this "best guess" about the question at hand, but rather waits until very strong evidence has been accumulated before making an assertion. A useful analogy is criminal procedure—the criminal court is to cling to a presumption of innocence until very strong evidence has been presented to the contrary.

This procedure for evaluating evidence is not appropriate in the policy arena, because policymakers do not have the luxury of scientific agnosticism—they are forced to act now, not ten years from now when the evidence may be stronger. Perhaps the appropriate analogy for them is the civil standard of "preponderance of the evidence"—the best guess available evidence. Rossi and Wright do not give us their best guess about whether gun control is potentially efficacious.

Government has adopted regulatory policies in many cases in the absence of scientific proof of the efficacy of these policies. The case for gun control, for example, is no weaker than the case for regulating cars and drivers through state licensing and registration systems. There is no proof that there are fewer accidents as a result of "car and driver" control, but there is a reasonable presumption that these systems have some effect. So it is with moderate gun control policies.

The main purpose of the Gun Control Act of 1968 is to insulate the states from each other so that some states can adopt more stringent regulations than others without having their policies undermined by interstate purchases. The Act fits rather well with President Reagan's objective of returning power to the states. And as states do experiment with different regulatory mechanisms for guns, scientists will learn more about their potential efficacy. There is nothing in Rossi and Wright's work that could honestly be used to support the repeal of the Gun Control Act.

I enclose a reprint of my recent article summarizing my view of the relationships between guns and crime. None of these relationships have been proved beyond reasonable doubt. But they do reflect the preponderance of the evidence.

Let me know if I can be of any further assistance on this matter.

Best regards,

PHILIP J. COOK,
Associate Professor of Public Policy Studies and Economics.

Senator MATHIAS. You mentioned Professor Cook, and that leads me to just one further question that is appropriate to ask Mr. Fenton.

Matt, Professor Cook said, among other things, when he was here that a gun control measure that might be effective in reducing gun availability would reduce the intensity of violent crime, but not the rate of violent crime.

In other words, we could expect less deaths perhaps, but not less assaults.

How do you feel as a victim?

Mr. FENTON. Like I said in my testimony, I think my life is more important than a few bucks. I would give everything I had to keep from being killed.

Yes; I think that robbery is bad in any case, but the possibility of being killed is infinitely worse, it is just unthinkable. That is what keeps me from walking on the streets. Well, I walk outside anyway, but I am a lot more careful now of where I am going and at which time I go than I was before.

Senator **Mathias**. But the fact that we realize that we will not by this legislation reduce the number of assaults does not in your mind make it a useless thing to do?

Mr. **Fenton**. No.

Senator **Mathias**. It is still a useful step for the Congress to take?

Mr. **Fenton**. I like the speed limit analogy. When the speed limit was reduced from 70 to 55, people might go 60 or 70 miles an hour instead of 80 or 90 as before. They may still get into as many accidents, but I do not think there will be as many killed because a car crashing at 15 or 20 miles per hour less is less likely to produce those terrible injuries.

Mr. **Shields**. Senator, your exact analogy was essentially the finding of the gentlemen who studied the Massachusetts Bartley-Fox law. And this is a layman's term, not pure scientific research. But they found essentially that that law which mandates a 1-year jail sentence for anybody illegally carrying a firearm on the streets of Massachusetts did not reduce the incidents of street crime. There was essentially the same number of crimes. What it did was reduce the amount of successful crime and save lives. And they estimate that it saved from 40 to 50 lives a year in the State of Massachusetts. And I think that is worth doing.

Mr. **Fenton**. I would like to say, too, that the people that shot me were never caught. I think that in a way I am helping myself by doing some work to push for stronger handgun control laws. I feel that if it can save just one life, then I have contributed something to society. And I think it will save lives if we do pass a law such as this [illegible] that we are talking about today.

Senator **Mathias**. I thank you both very much for being here.

Mr. **Shields**. Thank you.

Mr. **Fenton**. Thank you.

Senator **Mathias**. Our next witness is Dr. Wright.

STATEMENT OF DR. JAMES WRIGHT, SOCIAL AND DEMOGRAPHIC RESEARCH INSTITUTE, UNIVERSITY OF MASSACHUSETTS

Dr. **Wright**. Thank you.

I am James Wright of the University of Massachusetts; coauthor of a report entitled "Weapons, Crime, and Violence in America," a three-volume study also known as the Wright-Rossi report.

I will begin today with a very brief background on the project; an equally brief summary of what we have done and what we have found and what we think the implications are; and then I will be glad to respond to your questions.

Rossi and I received a grant to do this study in 1978 from the National Institute of Justice. Our task was to review the social scientific literature, published literature, on weapons and violent crimes, to take stock of where our knowledge stood in this area, and to prepare for the National Institute a research agenda to guide their future funding decisions.

Our point of view in this project has been very much one of scientific researchers and not of policy advocates of one sort or another.

Our project was budgeted for 2 years. We actually spent about 3 years working on it. We are doing continuing research at the moment.

I cannot honestly claim to have reviewed every available piece of written material bearing on the topic up through 1978. I do claim to have worked through a fairly large fraction of it.

The results of the work that we have done appear in a set of reports that run in the range of 1,200 pages and somewhere in those pages we touch on, I think, most of the issues and most of the arguments that are encountered in this area.

With a few minor exceptions, our work has not added new data or new evidence to this particular field of criminology. Our task was not to contribute something new, but to review, assess, and evaluate the work of others.

The overall aim of the project I think is best described as a "sifting and winnowing." We wanted to go through the literature, glean out what seemed to be fairly well established fact, isolate those things that we felt ought to be better understood, prepare a research agenda on that basis. Our intention is not now, and never was, to advise on matters of public policy, but rather to establish an information basis from which such policy decisions might be made.

I do want to emphasize and underscore a point which Mr. Shields has made; namely, the scientific agenda and the policy agenda are never the same agenda, and the things that we have to attend to first as scientific researchers in this area sometimes are not the most important things from a policy point of view.

I cannot possibly hope to summarize 1,200 pages of documents in the brief oral presentation I will make this morning. I would say that all of us connected with this project were variously surprised and depressed by what we found in the published literature. Much of the most commonly cited research fails, I would say, even elementary methodological standards. Much of the material is written from an expressly ideological and a priori point of view. This is what one would expect of a capable advocate, but somewhat surprising when it is encountered in the pages of a scientific journal.

At the risk of some overstatement, I will say that in my opinion there is scarcely an important point in the whole area of guns, crime and violence, that could be said to have been indisputably established according to the scientific criteria by which I conduct my kind of work. I would say that much of the relevant material in this area attempts more to persuade than to inform.

For this precise reason, many of the conclusions which appear in our report are stated in what could be appropriately summarized as negative terms. We often use the phrase "there is no compelling evidence that * * *" or "there is no data to suggest that * * *." And you can fill in as you wish.

I must emphasize that these are methodological and not substantive conclusions, although, as I have come to learn, many of the commentators on our study have attempted to infer a substantive conclusion from our results.

I must emphasize also that the absence of evidence, which we do remark, cannot be taken as the evidence of absence, a very elementary but often overlooked methodological point.

We do conclude, and are appropriately quoted by the National Rifle Association and others, that: "There is little evidence to show that gun ownership among the population as a whole is, per se, an important cause of criminal violence." That is a quote from our report. When we conclude this, we have not said that guns are not a cause of violence. All we have said is that no one has yet shown this to be the case to the satisfaction of criteria by which research of this sort is normally conducted.

To illustrate the nature of my point with an example that I think everyone can understand easily: It would have at one time been perfectly true and in order to conclude that there is little evidence to show that the Earth is round. This was not to conclude that the Earth was flat; only that no one had yet shown it conclusively not to be. And these are entirely different things. The unproven hypothesis is just exactly that: unproven, but not necessarily false or, for that matter, necessarily true. Adopting the language of criminal proceedings, as Phil Cook has done in characterizing our report, he is quite right in saying that our verdict is neither "guilt" nor "innocence," but rather insufficient evidence.

Now, it has been said, and correctly said, that if we waited until all the relevant evidence were in before we enacted policies, we would never get around to enacting policy, and thus, that the plea of people like me for more and better research is a good excuse never to do anything at all.

This is a point with which I agree. As a social scientist, however, my role is not to advise on matters of policy and certainly not to be a partisan for one or another point of view, particularly on something as contentious as guns, crime and violence. My role, to the extent that there is one, is to provide to the people who do make policy the best information that the state of my science allows. And if, in my judgment, the best information we can provide is itself not adequate or too uncertain or too unreliable to serve as the basis for policy formation, as in the present case, then my responsibility is to say exactly that.

I understand in advance that this is often interpreted, at least in some quarters, as a justification for immobilism on a policy matter of great importance to the Nation. That is a risk inherent in the kind of work that I do.

Now, as to the implications of what we have found.

I fear that I have nothing particularly profound to say along these lines. I think the honest answer to most of the relevant questions in this area is that we do not yet know the answer to the question.

I might say that these answers are generally not beyond our research capabilities, but most of the relevant research has yet to be done. Some of it, indeed, has been initiated, but for the most part the funding opportunities in the Federal Government for research of this sort do not look particularly bright at the moment. And I am not confident that we will have all the answers that we need even in the next 5 or 6 years.

If in calling me here your hope was that the existing research would unambiguously point the way to a less violent and less crime-ridden society, then I must report that you are certain to be disappointed. If others have come before you and given a contrary impression as to the state of evidence in this area, then I think that you have been misled.

One implication of our study is very definitely this: Nobody in the social science community knows enough about crime and violence to be able to state with any assurances at all what the effects on crime would be of any measure that the Government or the Senate or the Congress may choose to enact. Our theories and the available data in the criminological field would provide dim clues at best as to what the consequences will be of this or that specific piece of legislation.

In the past 30 years we have learned just how awesomely complex this problem of violent crime is. And from that alone we can state with much certainty that the effects of any particular single piece of legislation or any single measure will necessarily be a modest one. Given the amount of crime which is committed with handguns—and those numbers have been more or less accurately portrayed this morning—one might reasonably suppose, indeed might even say it stands to reason, that crime would go down in the face of some sort of strictly enforced handgun ban. But there are equally plausible reasons to suppose that it would go up in the face of such a ban, and other sensible reasons to suppose that the crime rate would be largely unaffected by such a measure.

I wish, at times desperately, that I could say, consistent with my criteria of scientific validity, just what the right answer to this question is. To emphasize my main point, my opinion is that the choice among these possibilities cannot be made on the basis of what we now know.

Let me end this presentation on the relatively trivial question of whether our report is essentially pro-gun or pro-gun control.

I would say in truth that we have tried to be neither; that we have tried to let the studies on both sides stand or fall on their own merits. If our report appears to be rather more hostile to the advocates of stricter gun controls, more hostile to the Pete Shields' than to the Neal Knox's, it is mainly because the procontrol argument is more often made on grounds of research findings than the pro-gun argument, and thus, that there is much more empirical research material to critique on the pro-control side of the issue. If there appears to be some imbalance in our coverage, it is an imbalance that exists in the published literature, and not one that has been imposed by our own points of view.

That is my opening statement. I will be glad to answer your questions.

Senator MATHIAS. You expressed a concern that your statement would not be regarded as profound.

As one who has sat here for more than 20 years, let me say that we do not look for profound witnesses. I think the most we can hope for is honest witnesses. And I think you have been an honest witness. You told us what you do not know, in addition to what you think you do know.

Dr. **Wright**. Thank you.

Senator **Mathias**. You have said in this connection in your study that you think there should be an agenda for additional research projects that are necessary to increase knowledge in this area.

What kind of further work would you recommend?

Dr. **Wright**. We have a chapter in the report which lays out in some detail the various kinds of studies that we think need very badly to be done, and one of which we are doing at the moment.

Mr. Shields, in his testimony, referred to the study by Professor Burr of handgun criminals in the Florida prisons. We are currently working on a project that would be a major replication and extension of this. This will be a study of approximately 1,600 hard-core felons now doing felony time in maximum security facilities in eight sites all around the Nation.

I think that a lot of the things that we need to know about the efficacy of banning certain kinds of firearms, banning "snubbies" as opposed to "cheapies," "cheapies" as opposed to "handguns," in general, many of these things make at the moment unwarranted assumptions about what the nature of the criminal demand for handguns is.

I would say, despite what the first witness this morning said—and I am very impressed with the work that they were able to do and with the ATF data that they were able to obtain—the fact is there is no nationally generalizable data on the criminal demand for handguns. We need a study of the sort that we are now doing very badly. We need to know what the motivations are; what the criteria are that criminals look for in a gun. I would say we need to stop making what seem to be reasonable assumptions and instead basing these kinds of decisions on research conducted according to the state of our art.

Another line of inquiry: We have not yet had a national firearm survey, an accounting study, as it were, of the private stock of legitimately possessed weaponry.

Again assumption abounds. Mr. Shields mentioned this morning in his testimony the mythical handgun in the bedside table. That this occurs is unquestionable. How frequently it occurs, we do not know. We do not even know how many people keep handguns loaded in their home. In fact, we do not even know how many homes have ammunition for the weapons in them.

We do have some sense as to how many households have a gun, but know nothing more about it: how it is used; how it is stored; why it is possessed; and things of this nature.

I think we do very badly need some sort of national accounting survey that provides the necessary information along these lines.

I think we need a better understanding of the distribution system for handguns.

And there are other kinds of studies that we have recommended. We also recommend that the social science community continue to study the effects of various legislative experiments that have been enacted with some sort of time series device, things of this nature.

Senator **Mathias**. One thing that has been studied rather extensively is the public mind on this subject.

Dr. WRIGHT. Yes.

Senator MATHIAS. What would you say is the basic thrust of public opinion on the issue of handgun control?

Dr. WRIGHT. I have often said that it is a very difficult question to answer because handgun control itself is a fairly nebulous concept. It ranges over the whole range of intervention mechanisms from a simple registration or permit mechanism, all the way up to mandatory sentences for handgun use in felonies. Some of these measures are very popular, according to the public opinion polls. Others are not.

Any question which asks about the general area of licensing or permit kinds of mechanisms routinely receives substantial majority support.

Any question which asks about mandatory sentences for the illegal use of firearms usually receives majority support in the range of 80 and 90 percent.

Proposals to ban outright the manufacture, sale, possession, ownership, or use of handguns in general tends generally to be opposed by a majority. A majority does apparently favor a ban on what are conventionally called "Saturday night specials."

There are many studies that have been done. I can talk more about them, if you wish.

Senator MATHIAS. I just wanted to get some basic idea of where that state of the art was on that subject. But let me go on to an interpretation that has been placed on your work.

I think you have been very explicit today in saying that it is a question really of not enough knowledge. But when you say there is no compelling evidence that private ownership of firearms is an important cause of violent criminality, that is interpreted in some quarters to mean that there is no causal connection between these two.

I am wondering if you would give us your reaction to that.

Dr. WRIGHT. Yes.

I would say there may very well be such a connection. It is just that the kinds of research that have been done to this point do not demonstrate that that connection exists.

Senator MATHIAS. So, your testimony is that it is equally erroneous, from your point of view, to say that there is or that there is not that causal connection.

Dr. WRIGHT. From my point of view, I treat it as an open and largely unanswered question. Not because people have not tried to answer it, but because of the kinds of research that have been done, the kinds of evidence which is available, is simply not definitive on this kind of question.

The international comparisons that have been made this morning—nothing of substance can be inferred from such comparisons. Any two nations, any set of nations, differ in hundreds or thousands of ways. These ways in which they differ must be held constant in an anlysis which attempts to say that this is the cause of that.

We cannot really do internationally comparative research and be definitive from a scientific point of view on topics such as, do stricter laws reduce the rate of weapons ownership or do reduced rates of weapons ownership reduce the rates of crime?

Senator **Mathias**. Professor Cook testified that the Massachusetts Bartley-Fox law had been apparently effective.

You state in your work that sometimes a law of this sort will be effective for a while and then will have a long-ranged, diminished effect.

Why do you get this kind of peak?

Dr. **Wright**. I think I would be a rich and famous man if I knew exactly why the crime rate trends in the way that it does.

Senator **Mathias**. But why would a gun control law be more effective immediately?

Dr. **Wright**. Perhaps because it is more strictly enforced immediately as there is a lot of attention, a lot of media coverage. As it sort of works its way into the standard normal operating procedure of police and prosecuting attorneys and so on, its effect may be ameliorated.

I think also one has to worry about accidental effects. For reasons I think completely exogenous to anything that was going on in the regulatory environment, the crime rate all around the country dipped a bit around 1976–77. It has started to turn back up now. This was exactly the time in which many major cities passed new handgun legislation. One has to look for the effects of say a Detroit law or a Baltimore law or a District of Columbia law—not just in Baltimore, Detroit, and the District of Columbia, but the whole range of cities in the Nation to see whether the experience in Boston, let us say, deviates from what might have been expected on the basis of chance alone.

As to the Bartley-Fox, there is a dispute as to whether the initial drop in the aggravated assault rate was in itself genuine or just one of these cyclical fluctuations that we really cannot model very well. And we cannot model the crime rate very well. We really cannot say year to year just what the rate of crime is going to be.

Senator **Mathias**. You noted that brevity is not the soul of the professoriat. Unfortunately, I am afraid brevity is going to have to be our rule because we have two more witnesses before noon.

So, thank you very much, Professor Wright, for being here.

Dr. **Wright**. Thank you for allowing me to appear.

Senator **Mathias**. Our next witness is Dr. David Caplan.

Dr. Caplan, as in the other cases, we will insert your full statement as if read and ask you to proceed.

STATEMENT OF DR. DAVID I. CAPLAN, PH. D., LL.B., NEW YORK

Dr. **Caplan**. Thank you.

I am David I. Caplan from New York City.

The constitutional right of the people to keep arms has deep roots in common law and constitutional history, and it remains of fundamental importance to this day. This right is explicitly guaranteed in the second amendment in the Bill of Rights and includes the keeping by private citizens of any hand-carried arms commonly used by private individuals and police for personal defense.

Because "a man's house is his castle and his defense", and because the third amendment in the Bill of Rights prohibits Government from quartering soldiers in a person's house during times of peace without his consent, the constitutional right of the people to keep arms must guarantee at its core the legally unfettered ability of the householder to acquire speedily and to keep permanently and anonymously in his house such arms as are commonly used for home defense, not only as a means for resistance against violent burglars but also as a strong moral check and deterrent against illegal quartering of troops in his house.

A key purpose of the constitutional right of the people to keep arms was enunciated in *Presser* v. *Illinois* decided by the U.S. Supreme Court in 1886, to wit, "for maintaining the public security"—that is, for citizen participation in preventing and suppressing violent felonies and capturing violent felons on the spot, a public purpose of great current importance and necessity, as at the common law.

According to a 1977 Library of Congress, Congressional Research Service, legal analysis entitled "The Second Amendment: A Legal Analysis", the constitutional right of the individual citizen to keep arms has been "forcefully" presented as follows:

> The second amendment in the Federal Bill of Rights guarantees the right of the people to keep and bear arms. This little understood and hence most undervalued article in our Bill of Rights was intended by its Framers to preserve our democratic-republican form of government and to prevent it from destroying the ballot box and from slipping into tyranical totalitarianism. Especially when combined with the ninth amendment's bundle of rights which was retained by the people and with the fifth amendment's right to life, liberty, and property, the Second Amendment also plainly guarantees the private individual right to keep and carry Arms for the added purpose of self-preservation and defense of the individual . . .
>
> The history and debates surrounding this 2d Amendment show that its Framers intended that a well regulated militia was only one of the purposes for the right of the people to keep and bear Arms. Viewed in another aspect, the 2d Amendment was adopted to obtain a militia which would be well regulated by the right of the people to keep and bear arms.

The constitutional right of the people to keep and bear arms is further guaranteed today by the constitutions of 37 States. This constitutional right inherently includes the right to use those arms for self-protection against attacks by burglars, robbers, arsonists, rapists, and other marauders—according to a judicial decision decided in 1964 in Louisiana, a State noted for pioneering the modern rules in America for the justifiable uses of deadly force.

This constitutional right to keep arms is further confirmed by the third amendment in the Federal Bill of Rights, prohibiting quartering of soldiers in any house during times of peace without the consent of the owner, and the fourth amendment, prohibiting unreasonable searches and seizures, especially because of the close historical association—well known to the framers of the Bill of Rights—between governmental disarming of the populace and quartering of troops, as well as mass searches and seizures.

"A man's house is his castle and his defense, and where he has a peculiar right to stay * * *" declared an English court in 1506, in the context of the right to protect oneself from bodily harm.

As explained by Lord Coke:

> And yet in some cases a man may not only use force and arms, but assemble company also. As any man may assemble his friends and neighbors to keep his house against those that come to rob him, or kill him, or to offer him violence in it, . . . for a man's house is his castle, and a house is for everyone his safest refuge; for where shall a man be safe, if it be not in his house? And in this sense it is truly said: The laws permit taking up arms against armed persons.

The importance of the foregoing quote, from Coke's "Institutes of the Laws of England," resides in the fact that of all the books on either law or politics in colonial libraries the most common was Coke's "Institutes," and that the U.S. Supreme Court has recently expressed the opinion that Lord Coke was "widely recognized by the American colonists 'as the greatest authority of his time on the laws of England.'" Thus Coke's "Institutes" formed the basis upon which the framers of the Bill of Rights drafted in a compact draft, expressed in terms of the common-law, such articles in the Bill of Rights as the right to keep and bear arms, and the right to be free in one's own house from quartering of soldiers during times of peace without his consent even when all else fails.

In *Stanley* v. *Georgia,* the U.S. Supreme Court in 1969 held unconstitutional a State statute prohibiting the possession of obscene materials even in one's own home. The Court extended constitutional protection to the mere possession of such pornographic materials, however unprotected such possession might be under the first amendment, upon the sole legal basis of: "'privacy of the home,' * * * a reaffirmation that 'a man's house is his castle.'" Thus even if it were to be assumed that handguns are the hard-core pornography of the second amendment, or that handguns are not constitutionally protected arms within any guarantee of the Constitution or common law, nevertheless the mere possession in the privacy of a person's own house of handguns would still be constitutionally protected, both from State and from Federal regulation, because "a man's house is his castle and his defense."

Of particular importance thus is the second and third amendment protection of the right to keep arms in the house permanently and anonymously—that is, arms immune from registration or licensing; and the right to acquire those arms quickly and with no legal impediments or burdens is thus also guaranteed. Moreover, the procedural and substantive due process concern for the individual's "life, liberty, and property" contained in the fifth and fourteenth amendments, as well as the right to privacy and other nonenumerated personal rights protected by the ninth amendment, further confirm and guarantee the individual constitutional right to keep and use arms for "self preservation and defense."

The constitutional test of "balancing of interests" cannot be applied in cases of core constitutional rights. Thus, for example, the U.S. Supreme Court in a 1979 case refused to consider any balancing of conflicting interests when dealing with "the constitutional privilege against compulsory self-incrimination in its most pristine form." Similarly, by the same token, there can be no balancing of interest test when dealing with the "unqualified" right to keep arms as opposed to the qualified right to bear arms.

The keeping of handguns in the home for self preservation and defense thus lies at the core of the constitutional right to keep arms for the purpose of defending one's own house—one's castle—and may thus not be cut down by any balancing test if we are going to be at all faithful to fundamental constitutional principles.

Courts have dealt with the utility of handguns in another context. In order for an invention to be patentable, it must have utility. In a 1969 case, the U.S. Court of Customs and Patent Appeals put its hearty stamp of approval on its updated quotation from a

1903 decision of the U.S. Court of Appeals, Seventh Circuit, in turn quoting from the 1880 textbook "Walker on Patents":

> An important question, relevant to utility in this aspect, may hereafter arise and call for judicial decision. It is perhaps true, for example, that the invention of Colt's revolver was injurious to the morals, and injurious to the health, and injurious to the good order of society. That instrument of death may have been injurious to morals, intending to tempt and to promote the gratification of private revenge. It may have been injurious to health, in that it is very liable to accidental discharge, and thereby to cause wounds, and even homicide. It may also have been injurious to good order, especially in the newer parts of the country, because it facilitates and increases private warfare among frontiersmen. On the other hand, the revolver, by furnishing a ready means of self-defense, may sometimes have promoted morals and health and good order. By what test, therefore, is utility to be determined in such cases? Is it to be done by balancing the good functions with the evil functions? Or is everything useful within the meaning of the law, if it is used, or is designed and adapted to be used, to accomplish a good result, though in fact it is oftener used, or is as well or even better adapted to be used, to accomplish a bad one? Or is utility negatived by the mere fact that the thing in question is sometimes injurious to morals, or to health, or to good order? The third hypothesis cannot stand, because if it could, it would be fatal to patents for steam engines, dynamos, electric railroads, and indeed many of the noblest inventions of the nineteenth century. And what of such things as automobiles, airplanes, tires, power tools, explosives, lawn mowers, and drugs in the twentieth century? The first hypothesis cannot stand, because if it could, it would make the validity of patents to depend on a question of fact to which it would often be impossible to give a reliable answer. The second hypothesis is the only one which is consistent with the reason of the case, and with the practical construction which the courts have given to the statutory requirements of utility.

Just as the revolver's fundamental social redeeming importance for self-defense thus renders its invention patentable from the standpoint of utility, likewise this same self-defense feature renders the possession of a revolver by the law-abiding citizen worthy of constitutional protection under the second amendment of the Bill of Rights.

The constitutional right to keep and use arms raises two fundamental threshold issues as to what arms, and what uses, are constitutionally protected. As with other provisions of the Bill of Rights, the common law furnishes the proper standards and criteria for the right to keep and use arms.

In short, the arms protected under the common law, and hence under the Constitution, in the hands of the citizenry are all those arms which are "hand-carried weapons commonly used by individuals and police for personal defense." Thus, firearms such as pistols, revolvers, rifles, and shotguns are all clearly within the ambit of constitutional protection, and none can logically be excluded.

As to constitutionally protected uses, these include the common law justifiable and not merely excusable uses of deadly force against violent felons encountered in the act of felony committed by violence and surprise "who would not surrender peaceably, but stood on their defense, or fled." In all such cases of felonious attacks, the life of the victim is presumed to be in danger under the common law; and hence in all those cases the victim or bystander was justified under common law to use deadly force to prevent or resist the felony and to capture the felon, as an act worthy of "commendation rather than blame." Accordingly, the justifiable uses of deadly force with firearms commonly used for the purpose, under common-law rules of justification, lies at the core of the constitutional right to keep and bear arms; their use to defend the home by preventing or suppressing burglary or arson was "one of the major privileges of the common law."

Thank you, Mr. Chairman.

Senator **Mathias**. Thank you very much.

You have just given us a very interesting and learned dissertation. But I am curious about one omission. And that is the finding of the U.S. Supreme Court in the case of *United States* v. *Miller,* where the Court found, in brief, that you could set up a category—in that case sawed-off shotguns—and require registration.

Dr. **Caplan**. Yes. Those are not commonly used by individuals for self-preservation and defense under the common-law standard. Therefore, they would not be included as "arms" under the Constitution. And, therefore, there is nothing inconsistent with the Miller case and the common-law principle.

Senator **Mathias**. One of the features of one of the bills that is pending in this committee, the Kennedy-Rodino bill, and of S. 1030 as it has been amended by the committee, is a waiting period. Does a waiting period constitute an invasion of constitutional rights?

Dr. **Caplan**. I would say absolutely. Just as a waiting period before you could speak or distribute a hand bill in public would likewise be constitutionally defective.

Senator **Mathias**. We have before us the Kennedy-Rodino bill. We had, and this committee approved in 1972, the Saturday night special bill. And we have the recommendations of the Attorney General's Task Force on Violent Crime.

How do you react to this general set of recommendations?

Dr. **Caplan**. I would say they represent a basic failure to understand almost a thousand years of common-law history and experience with this problem. And that they also fail to understand, therefore, the common-law standards and the constitutional questions that are involved.

Senator **Mathias**. Well, you could not be clearer as to your views. The committee is very grateful to you for being here.

Thank you very much.

Dr. **Caplan**. Thank you.

[The prepared statement and letter of Dr. Caplan follow:]

PREPARED STATEMENT OF DAVID I. CAPLAN

SUMMARY

The constitutional right of the people to keep arms has deep roots in common law and constitutional history, and it remains of fundamental importance to this day. This right is explicitly guaranteed in the Second Amendment in the Bill of Rights and includes the keeping by private citizens of any hand-carried arms commonly used by private individuals and police for personal defense.

Because "a man's house is his castle and his defense," and because the Third Amendment in the Bill of Rights prohibits government from quartering soldiers in a person's house during times of peace without his consent, the constitutional right of the people to keep arms must guarantee at its core the legally unfettered ability of the householder to acquire speedily and to keep permanently and anonymously in his house such arms as are commonly used for home defense, not only as a means for resistance against violent burglars but also as a strong moral check and deterrent against illegal quartering of troops in his house.

A key purpose of the constitutional right of the people to keep arms was enunciated in *Presser* v. *Illinois* [~~116 U.S. 252, 265~~] decided by the U.S. Supreme Court in 1886, to wit, "for maintaining the public security" --that is, for citizen participation in preventing and suppressing violent felonies and capturing violent felons on the spot, a public purpose of great current importance and necessity, as at the common law.

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STATEMENT

According to a 1977 Library of Congress, Congressional Research Service, legal analysis entitled "The Second Amendment: A Legal Analysis," the constitutional right of the individual citizen to keep arms has been "forcefully"(1) presented as follo

> The Second Amendment in the Federal Bill of Rights guarantees "the right of the people to keep and bear arms." This little understood and hence most undervalued Article in our Bill of Rights was intended by its Framers to preserve our democratic-republican form of government and to prevent it from destroying the ballot box and from slipping into tyrannical totalitarianism. Especially when combined with the Ninth Amendment's bundle of rights which was retained by the people and with the Fifth Amendment's right to life, liberty, and property, the Second Amendment also plainly guarantees the private individual right to keep and carry Arms for the added purpose of self-preservation and defense of the individual...
>
> The history and debates surrounding this 2d Amendment show that its Framers intended that a well regulated militia was only one of the purposes for the right of the people to keep and bear Arms. Viewed in another aspect, the 2d Amendment was adopted to obtain a militia which would be "well regulated" by "the right of the people to keep and bear arms." (2)

The constitutional right of the people to keep and bear arms is further guaranteed today by the constitutions of thirty-seven States.(3) This constitutional right inherently includes the right to use those arms for self-protection against attacks by burglars, robbers, arsonists, rapists, and other marauders--according to a judicial decision decided in 1964(4) in Louisiana, a State noted for pioneering the modern rules in America for the justifiable uses of deadly force.(5) This constitutional right to keep arms is further confirmed by the Third Amendment in the Federal Bill of Rights (prohibiting quartering of soldiers in any house during times of peace without the consent of the owner) and the Fourth Amendment (prohibiting unreasonable searches and seizures), especially because of the close historical association--well-known to the Framers of the Bill of Rights--between governmental disarming of the populace and quartering of troops, as well as mass searches and seizures.(6)

"A man's house is his castle and his defense, and where he has a peculiar right to stay..." declared an English court(7) in 1506, in the context of the right to protect oneself from bodily harm. As explained by Lord Coke:(8)

> And yet in some cases a man may not only use force and arms, but assemble company also. As any man may assemble his friends and neighbors to keep his house against those that come to rob him, or kill him, or to offer him violence in it,...for a man's house is his castle, & domus sua cuique est tutissimum refugium [a house is for everyone his safest refuge]; for where shall a man be safe, if it be not in his house? And in this sense it is truly said
>
> Armaque in armatos sumere jura sinunt.
> [The laws permit taking up arms against armed persons.]

The importance of the foregoing quote, from Coke's Institutes of the Laws of England, resides in the fact that of all the books on either law or politics in colonial libraries "the most common was Coke's Institutes"(9) and that the U.S. Supreme Court has recently expressed the opinion that Lord Coke was "widely recognized by the American colonists 'as the greatest authority of his time on the laws of England.'"(10) Thus Coke's Institutes formed the basis upon which the Framers of the Bill of Rights drafted "in a compact draft,...expressed in terms of the common law,"(11) such Articles in the Bill of Rights as the right to keep and bear arms, and the right to be free in one's own house from quartering of soldiers during times of peace without his consent even when all else fails.

In Stanley v. Georgia,(12) the U.S. Supreme Court in 1969 held unconstitutional a State statute prohibiting the possession of obscene materials even in one's own home. The Court extended constitutional protection to the mere possession of such pornographic materials, however unprotected such possession might be under the First Amendment, upon the sole legal basis of: "'privacy of the home,'...a reaffirmation that 'a man's house is his castle.'"(13) Thus even if it were to be assumed that handguns are the hard-core pornography of the Second Amendment, or that handguns are not constitutionally protected "arms" within any guarantee of the Constitution or common law, nevertheless the "mere possession...in the privacy of a person's own house"(14) of handguns would still be constitutionally protected, both from State and from Federal regulation, because "a man's house is his castle and his defense."

Of particular importance thus is the Second and Third Amendment protection of the right to keep arms in the house permanently and anonymously --that is, arms immune from registration or licensing; and the right to acquire those arms quickly and with no legal impediments or burdens is thus also guaranteed. Moreover, the procedural and substantive due process concern for the individual's "life, liberty, [and] property" contained in the Fifth and Fourteenth Amendments, as well as the right to privacy and other non-enumerated personal rights protected by the Ninth Amendment(15), further confirm and guarantee the individual constitutional right to keep and use arms for "self preservation and defence."(16)

The constitutional test of "balancing of interests"(17) cannot be applied in cases of core constitutional rights. Thus, for example, the U.S. Supreme Court in a 1979 case(18) refused to consider any balancing of conflicting interests when dealing with "the constitutional privilege against compulsory self-incrimination in its most pristine form."(19) Similarly, by the same token, there can be no balancing of interest test when dealing with the "unqualified"(20) right to keep arms as opposed to the qualified right to bear arms. The keeping of handguns in thehome for self preservation and defense thus lies at the core of the constitutional right to keep arms for the purpose of defending one's own house--one's castle--and may thus not be cut down by any balancing test if we are going to be at all faithful to fundamental constitutional principles.

Courts have dealt with the utility of handguns in another context. In order for an invention to be patentable, it must have utility.(21) In a 1969 case,(22) the United States

Court of Customs and Patent Appeals put its hearty stamp of approval on its updated quotation from a 1903 decision(23) of the U.S. Court of Appeals, 7th Circuit, in turn quoting from the 1880 textbook Walker on Patents:

> An important question, relevant to utility in this aspect, may hereafter arise and call for judicial decision. It is perhaps true, for example, that the invention of Colt's revolver was injurious to the morals, and injurious to the health, and injurious to the good order of society. That instrument of death may have been injurious to morals, in tending to tempt and to promote the gratification of private revenge. It may have been injurious to health, in that it is very liable to accidental discharge, and thereby to cause wounds, and even homicide. It may also have been injurious to good order, especially in the newer parts of the country, because it facilitates and increases private warfare among frontiersmen. On the other hand, the revolver, by furnishing a ready means of self-defense, may sometimes have promoted morals and health and good order. By what test, therefore, is utility to be determined in such cases? Is it to be done by balancing the good functions with the evil functions? Or is everything useful within the meaning of the law, if it is used (or is designed and adapted to be used) to accomplish a good result, though in fact it is oftener used (or is as well or even better adapted to be used) to accomplish a bad one? Or is utility negatived by the mere fact that the thing in question is sometimes injurious to morals, or to health, or to good order? The third hypothesis cannot stand, because if it could, it would be fatal to patents for steam engines, dynamos, electric railroads, and indeed many of the noblest inventions of the nineteenth century. [And what of such things as automobiles, airplanes, tires, power tools, explosives, lawn mowers, and drugs in the twentieth century?] The first hypothesis cannot stand, because if it could, it would make the validity of patents to depend on a question of fact to which it would often be impossible to give a reliable answer. The second hypothesis is the only one which is consistent with the reason of the case, and with the practical construction which the courts have given to the statutory requirements of utility.(24)

Just as the revolver's fundamental social redeeming importance for self-defense thus renders its invention patentable from the standpoint of utility, likewise this same self-defense feature renders the possession of a revolver by the law-abiding citizen worthy of constitutional protection under the Second Amendment of the Bill of Rights.

The constitutional right to keep and use arms raises two fundamental threshold issues as to what arms, and what uses, are constitutionally protected. As with other provisions(25) of the Bill of Rights, the common law furnishes the proper standards and criteria for the right to keep and use arms. In short, the arms protected under the common law, and hence under the Constitution, in the hands of the citizenry are all those arms which are "hand-carried weapons commonly used by individuals [and police] for personal defense."(26) Thus, firearms such as pistols, revolvers, rifles, and shotguns are all clearly within the ambit of constitutional protection, and none can logically be excluded. As to constitutionally protected uses, these include the common-law justifiable (and not merely excusable)(27) uses of deadly force against violent felons encountered in the act of felony committed by "violence [and] surprise"(28) who "would not surrender peaceably, but stood on their defense, or fled."(29) In all such cases of felonious attacks, the life of the victim is presumed to be in danger under the common law;(30) and hence in all those case the victim or bystander was justified under common law to use deadly force to prevent or resist the felony and to capture the felon, as an act worthy of "commendation rather than blame."(31) Accordingly, the justifiable uses of deadly force with firearms commonly used for the purpose, under common law rules of justification, lies at the core of the constitutional right to keep and bear arms; their use to defend the home by preventing or suppressing burglary or arson was "one of the major privileges of the common law." (32)

F O O T N O T E S

(1) The Second Amendment: A Legal Analysis, Congressional Research Service, Library of Congress (1977) (77-84-A, 639/90, UC 460 B), pp. 43-44.

(2) "Point Blank", Vol VI, No. 7, July 1976, p. 2, as quoted in note 1.

(3) D.I. Caplan, The Right of the Individual to Bear Arms: A Recent Judicial Trend, Detroit College of Law Review (Fall 1982), n.8.

(4) McKellar v. Mason, 159 So. 2d 700, 702 (4th La. Cir., 1964) ("The Constitutions of the United States and Louisiana give us the right to keep and bear arms. It follows logically, that to keep and bear arms gives us the right to use the arms for the intended purpose for which ther were manufactured."). The U.S. Supreme Court in Presser v. Illinois, 116 U.S. 252, 265 (1886) declared that the constitutional right of the people to keep and bear arms was so fundamental that even putting the Second Amendment "out of view," the States cannot infringe the right of the people to keep and bear arms for otherwise the people could be deprived of "their rightful resource for maintaining the public security."

(5) See, Professor H. Wechsler, Chief Reporter of Model Penal Code, statement in 35th Annual Meeting, The American Law Institute, Proceedings (1958), p. 285.

(6) See, J.L. Malcolm, Disarmed: The Loss of the Right to Bear Arms in Restoration England, The Mary Ingraham Bunting Institute of Radcliffe College, Bunting Institute Working Paper (1980), p. 15. See also, State v. Kessler, 289 Oregon 359, 363-363, 614 P. 2d 94, 96 (1980); and see also, D. I. Caplan, Restoring the Balance: The Second Amendment Revisited, 5 Fordham Urban Law Journal 31, 35-36 (1976).

(7) Anonymous, 21 Henry VII, 39, pl. 50 (K.B., 1506), transl., J. H. Beale, Jr., A Selection of Cases and Other Authorities Upon Criminal Law (2nd ed., 1907), p. 569.

(8) E. Coke, The Third Part of the Institutes of the Laws of England (5th ed., 1671), p. 161.

(9) Payton v. New York, 445 U.S. 573, 594 n. 36 (1980).

(10) Id., 445 U.S. at 594.

(11) Ex parte Grossman, 267 U.S. 87, 109 (1925).

(12) 394 U.S. 557 (1969).

(13) Paris Adult Theatre I v. Slayton, 413 U.S. 49, 66 (1973).

(14) Stanley v. Georgia, supra note 12, 394 U.S. at 564.

(15) See, Griswold v. Connecticut, 381 U.S. 479, 486 (1965)("a right of privacy older than the Bill of Rights--older than our political parties, older than our school system.") (The same can be said of the right of self-defense against violent burglars. See, 4 W. Blackstone, Commentaries on the Laws of England (1769), p. 180 ("...[S]uch homicide, as is committed for the prevention of any forcible and atrocious crime, is justifiable by the law of nature; and also by the law of England, as it stood so early as the time of Bracton [died 1268], and as it is since declared by statute 24 Hen. VIII. c. 5 [1532].... So the Jewish law, which punishes no theft with death, makes homicide only justifiable, in case of nocturnal housebreaking.... At Athens, if any theft was committed by night, it was lawful to kill the criminal, if taken in the fact.").) And see also, D.I. Caplan, Restoring the Balance: The Second Amendment Revisited 5 Fordham Urban Law Journal (1976), at pp. 49 - 50.

(16) 1 W. Blackstone, Commentaries (1765), p. 140. Facsimile ed., 1979.

(17) New Jersey v. Portash, 440 U.S. 450, 459 (1979).

(18) *Id*.

(19) *Id*.

(20) *Aymette* v. *State*, 21 Tenn. 119, 124, 2 Humph. 154, 159 (1840), a case repeatedly cited with approval in *United States* v. *Miller*, 307 U.S. 174, 178, 182 n. 3 (1939).

(21) 35 U.S. Code §102.

(22) *In re Anthony*, 414 F. 2d 1383 (CCPA, 1969).

(23) *Fuller* v. *Berger*, 120 F. 274 (7th Cir., 1903).

(24) *In re Anthony*, *supra* note 22, 414 F. 2d n. 12.

(25) For example, in *Payton* v. *New York*, 445 U.S. 573, 591 (1980), regarding the standards for the Fourth Amendment's "reasonableness" of searches and seizures (including body seizures or arrests), the U.S. Supreme Court declared:"An examination of the common-law understanding of an officer's authority to arrest sheds light on the obviously relevant, if not entirely dispositive, consideration of what the Framers of the Amendment thought to be reasonable." For other examples, *see*, D. I. Caplan, *Restoring the Balance: The Second Amendment Revisited*, 5 Fordham Urban Law Journal (1976), p. 33 and n. 16. *See also*, *supra* note 11 and accompanying text.

(26) *State* v. *Kessler*, 289 Oregon Reports p. 359, at p. 371, 614 Pacific Reporter, 2d Series, p. 94, at p. 100 (1980). Compare the English common-law standard of "wearing common weapons." 1 W. Hawkins, *Pleas of Crown* (5th ed., 1771), p. 136.

(27) For the distinction between justifiable and excusable homicide, *see*, R.M. Perkins, *Criminal Law* (2nd ed., 1969), pp. 1001 - 1002. Basically, justifiable homicides arose in the killing of violent burglars, robbers, arsonists, and rapists caught in the act or in immediate flight therefrom; excusable homicides arose in sudden brawls, heat of passion, or accidents. He who committed a justifiable homicide was fully acquitted and discharged; he who committed a merely excusable homicide required a pardon from the crown in order to be released from jail and at various times in English history forfeited his worldly goods even if pardoned.

(28) *Beard* v. *United States*, 158 U.S. 550, 562, 563 (1895), quoting from *East's Pleas of the Crown*, *Foster's Crown Cases*, and *Wharton on Criminal Law*.

(29) *Rex* v. *Compton*, 22 Liber Assisarum (Book of Assizes) *placitum* 55 (1347), transl. in J.H. Beale, Jr., *Retreat from a Murderous Assault*, 16 Harvard Law Review (1903), p. 567, at p. 569. This *Compton's Case* was cited as controlling authority in 3 E. Coke, *Institutes* (5th ed., 1671), p. 221.

(30) *United States* v. *Gilliam*, 25 Fed. Cas. 1319, 1320 (Case No. 15,205a) (D.C., 1882); *People* v. *Ceballos*, 12 Cal. 3d 470, 478, 526 P. 2d 241, 254 (1974)("...from their atrocity and violence, human life either is, or is presumed to be, in peril.")

(31) 4 W. Blackstone, *Commentaries on the Laws of England (1769)*, p. 182.*(Facsimile of the First Edition, 1979.)*

(32) R.M. Perkins, *Criminal Law* (2nd ed., 1969), p. 992, p. 1004.

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DAVID I. CAPLAN, PH.D.
ATTORNEY AT LAW
250 WEST 94 STREET
NEW YORK, NY 10025
(212) 662-5412

May 16,1982

Senator Charles McC. Mathias, Jr.
Chairman, Subcommittee on Criminal Law
United States Senate, Committee on the Judiciary
Washington, DC 20510

Dear Senator Mathias,

I wish to thank you for affording me the opportunity of appearing at the hearing before your Subcommittee on Criminal Law to present my views on the constitutionality of handgun control legislation, on last May 5. I should appreciate it if you would accept the following remarks for the record, primarily in response to the statement of the witness David J. Steinberg who followed my own appearance at the hearing.

I. The common law of England was a set of judge-made laws, not legislation. Some legislation was declaratory or in affirmance of common law, some in derogation of common law. It is important not to confuse legislation with common law.

II. The only statute ultimately judicially interpreted as being declaratory of common law in England on the subject of keeping or bearing arms was the 1328 State ot Northampton, 2 Edw. III, ch. 3. Interestingly, that statute literally prohibited the subject "...to come before the King's Justices or other Ministers doing their office, with force and arms, nor bring no force in affray [terror] of the peace nor to go nor ride armed, by night nor by day, in Fairs, Markets,..." Thus, the statute would literally ban *all* riding armed, contrary to the common law allowance of peaceful carrying of arms; but the English courts placed a judicial gloss on the statute: "The words 'in affray of the peace' in the statute, being read forward into the 'going armed,' render the former words part of the description of the statutable offense." [*King* v. *Smith*, 2 Irish Reports 190, 124 (1914).] Only with this interpretation, requiring proof of terror engendered by the carrying of arms, was the Statute of Northampton declared to be "but an affirmance" of the common law. [*Rex* v. *Knight*, 87 Eng. Rep. 75, 76 (1686)("to punish people who go armed to terrify the King's subjects.").]

III. Accordingly, in order for an indictment under the Statute of Northampton to be sufficient, it had to specify "(1) That the going armed was without lawful occasion; and (2) that the act was *in terrorem populi* [to the terror of the populace]." [*King* v. *Smith*, *supra*, 2 Irish Reports at 204 (1914).] The reason for this requirement was the common law's "general connivance to gentlemen to ride armed for their security." [*Rex* v. *Knight*, 90 Eng. Rep. 330 (1686).] Thus the common law allowed persons to carry "common weapons" [1 W. Hawkins, *Pleas of the Crown*, Ch.63, Sect. 9, p. 136 (5th ed., 1771)], so long as the number of such weapons being carried was not so great as to be "calculated to produce terror and alarm." [*Rex* v. *Dewhurst*, 1 State Trials, New Series 529, 601 (1820).]

IV. One of the reasons for the judicial interpretation of the Statute of Northampton as requiring a showing of terror to the people undoubtedly was, as described by the famous French ambassador to the United States 1902-1915 and Pulitzer prize-winning historian, Jean Jules Jusserand, concerning 14th century England: "...manners being violent, the wearing of arms was prohibited, but honest folk alone conformed to the law, thus facilitating matters for the others...." [J.J.Jusserand, *A Literary History of the English People, From the Origins to the Renaissance*, p. 270 (1895).]

V. "Notwithstanding the early date of this statute [of Northampton], we have no evidence that it was accepted as common law in our colonies." [J.P. Bishop, *Commentaries on the Law of Statutory Crimes*, §783, p. 530 (3rd ed., 1901).]

VI. At any rate, there was no *common-law* prohibition or regulation, either in England or America, against the *keeping* of arms, in the home or place of business, so long as the arms were not used in a manner calculated to cause terror and alarm to the people.

In conclusion, the following anecdote may help clarify the gun control issue.

A professor of surgery once announed to his class that he had devised a new operation which saved many of his patients' lives. A student asked him: "Professor; did you divide your patients into two halves, and give only one of them the operation and leave alone the other half as a control group?" To which the professor exclaimed: "Certainly not; I would not want to jeopardize the lives of half my patients!" To which the student responded: "Professor; which half?"

Even if gun prohibition could somehow be proven to be useful in preventing gun accidents and passion killings among friends and family, the problem would remain that gun prohibition at the same time would sacrifice the lives of many law-abiding, careful, cool-headed, rational, productive, innocent victims of violent crime to the illegally armed criminals. A rational society must value the rights and needs of these innocent victims infinitely more than those of the criminal, the careless, and the hot-headed (or their friends and family, too), in order to discourage carelessness, hotheadedness, and criminality. A rational society rewards the law-abiding, careful, cool-headed, and productive citizens and allows them to exercise effective self preservation and defense, and thus induces the criminal, the careless, and the hot-head to become law abiding, careful, cool, and productive. That is why I believe the constitutional right to have arms for self protection is both socially desirable and important for developing a better society.

Yours very truly,

DCaplan

David I. Caplan

Senator **Mathias**. Our final witness for the day is David Steinberg.

You are, I understand, the acting chairman of the National Council for a Responsible Firearms Policy.

STATEMENT OF DAVID J. STEINBERG, ACTING CHAIRMAN, NATIONAL COUNCIL FOR A RESPONSIBLE FIREARMS POLICY

Mr. **Steinberg**. Yes. I am the acting chairman of the National Council for a Responsible Firearms Policy.

I welcome this opportunity to testify in these very important hearings.

I helped organize the National Council for a Responsible Firearms Policy back in 1967. We did so under the leadership of James V. Bennett of the State of Maryland, one of this country's outstanding authorities in the field of criminal justice.

Senator **Mathias**. And a great friend of mine.

Mr. **Steinberg**. I am proud to say, sir, a great friend of mine.

Senator **Mathias**. He was a remarkable public servant.

Mr. **Steinberg**. Indeed.

He was for some 27 years Director of the Federal Bureau of Prisons in the Department of Justice.

THE LONG AND SHORT OF GUN CONTROL

I personally have been campaigning for strict gun control for over 20 years. My concern when I began my active involvement with this issue was a concern over the violent misuse of all kinds of firearms, not just handguns. Rifles and shotguns as well.

When our council was organized in 1967 we were concerned, and we still are concerned, with the violent misuse of all kinds of firearms.

We recognize fully what the statistics show in comparing the incidence of handgun-related violence with the incidence of long-gun-related violence. But, Mr. Chairman, what statistic are we waiting for concerning the violent misuse of rifles and shotguns? Are we to be justly concerned, as we should be, over the use of a handgun in the attacks on Presidents Reagan and Ford and forget that President John F. Kennedy was killed with a rifle? Are we to be justly concerned, as we should be, and indeed anguished, over the use of a handgun in the murder of Dr. Michael Halberstam, and forget that Dr. Martin Luther King was killed with a rifle? Are we to be justly concerned, as we should be, over the use of a handgun in the murder of John Lennon, and forget that it was a shotgun that was used to kill 15-year-old Todd McKinney, a newsboy, in Annandale, Va., about a dozen years ago?

I am puzzled really that when Vernon Jordan was shot—and thank God he lived and is still a very active American—there was no great flurry about gun control. Vernon Jordan was not shot with a handgun. He was shot with a rifle.

Someone has said, and it was said here I think in this hearing today, if we could only save just one life it would be worth the effort. I think that active concern over the easy accessibility of rifles and shotguns and all kinds of guns to people who lack the crucial qualifications for responsible possession, such active concern and adequate legislation reflecting that concern would save lives and hence would be worth the effort.

Robert Kennedy has been quoted on this issue in many places, including in this hearing this morning, Mr. Chairman. The quotation ascribed to Robert Kennedy this morning reflected the late Senator's concern over the violent misuse of all kinds of firearms, not just handguns. And it was Robert Kennedy who said: "The time has come to wipe this stain of violence from our land." He was talking about violence with all kinds of guns.

Now, I recognize and I understand and I have lived with the political realities of this issue. I know that if any action is going to be taken in the foreseeable future on firearms, any additional action in the direction of stricter gun control, it is going to be on handguns only. But I have regarded it as my responsibility, and my council has regarded it as its responsibility, to raise the sights of the Nation to what the Nation desperately needs in the area of firearms regulation.

COMMENTS ON SPECIFIC BILLS

We are prepared, for example, to accept the Kennedy-Rodino bill. It is something that we, as a council, have not campaigned for. I personally have not campaigned for it. I believe there are many useful features in it. But the Kennedy-Rodino bill is not adequate. We had regarded it as something we might have to settle for after campaigning for the right kind of firearms legislation. In view of the fact that whatever is sent out of your committee is going to be the target of all kinds of compromising and all kinds of efforts to weaken the measure, why not start with what the country needs and then let the political forces of the Senate work their will?

Under the present and forseeable circumstances, however, it seems to me that the most that we who advocate stricter gun control can expect is the Kennedy-Rodino bill. And, therefore, this morning I urge the committee to report out the essentials of the Kennedy-Rodino bill with such modifications as may seem necessary to make it a better bill that addresses not only the total public interest, but also concerns itself adequately and equitably with the legitimate interests of law-abiding gun owners.

I know that your committee is also considering S. 2507, if I have the number correct, of the 92d Congress, a bill that passed the Senate in 1972 but was not moved to the House floor.

Our council supported that bill in 1971–72, but we did so without illusions as to its adequacy.

My feeling, Mr. Chairman, today is that the purpose of S. 2507 should be incorporated in a broader bill. I feel that it would be a mistake to enact S. 2507 in and of itself. I feel this way for the reason that whatever is done in 1982 toward stricter controls is very likely to be the last piece of gun control legislation, establishing additional controls, for a decade or more. Fourteen years have passed since the Gun Control Act of 1968. S. 2507 is just too inadequate a bill on which to rest the gun control effort.

Just two or three other points, Mr. Chairman. I am trying to be very brief. As you know, I have a much longer statement, which is before the subcommittee.

Senator **Mathias**. Which, as all, will be included in the record.

Mr. **Steinberg**. Thank you, sir.

If all handguns disappeared from the face of America at the stroke of midnight tonight and no more were ever manufactured anywhere in the world, there would still be a lot of gun-related violence in America. Indeed, I fear that there would still be a lot of violence with concealable weapons called handguns for the reason that, as many in the gun-owning community have rightly pointed out, it is very easy to convert a long gun into a handgun; just a little muscle and a little hacksaw. Therefore, it seems to me advisable in the total public interest to concern ourselves with all kinds of firearms.

Now, additional or strict gun control is not the alpha and omega of the answer that needs to be found to firearms-related violence. But it is indispensable to the answer that urgently needs to be found.

Two other points.

I regret the action that was taken recently by the parent committee. The additional measures regarding a waiting period and so forth are steps in the right direction, but they are too marginal to redeem the enormity of S. 1030, which is a bill that does not address the total public interest.

In my statement, Mr. Chairman, I have said that if freedom is indeed the issue, as Senator Symms of Idaho says it is, then the freedom we ought to be talking about is not just the rights of gun owners, but also the rights of all Americans, those who own guns and those who do not.

ATTORNEY GENERAL'S TASK FORCE

I think you wanted some discussion of the Attorney General's task force. I would only say that I for one am greatly disappointed in what the Attorney General's Task Force on Violent Crime had to say about the use of guns in crime. I am disappointed because the report completely omitted any reference to long guns and also because even what they said on handguns involved too much of a compromise.

The Attorney General's Task Force on Violent Crime invoked political feasibility as a major standard. I submit to you, Mr. Chairman, that that array of professional talent should not have concerned itself with political feasibility. Political feasibility we leave to the politicians in the Congress and in the White House. It was the job of that task force to raise the sights of this Nation to what this Nation needs in this policy area and let us proceed from there.

With that I conclude these random, perhaps disjointed remarks. And I thank you for your attention.

Senator **Mathias**. I think they are anything but random and disjointed. I think they are very helpful and supplement your written statement.

Mr. **Steinberg**. Thank you, sir.

Senator **Mathias**. Let me ask you two very brief questions.

First, you followed Dr. Caplan, who stated very strongly and very forcibly his views on the constitutional question, and which really would come down to the point that this committee has no authority to enact, or the Congress has no authority to enact the kind of bill that you advocate.

What is your reaction to Dr. Caplan's position?

Mr. STEINBERG. My longer view on what he had to say you will find in a paper of mine which was recently reproduced in a compendium on the right to keep and bear arms, recently published by the Subcommittee on the Constitution of the Senate Judiciary Committee.

Senator MATHIAS. Would you provide the committee with a copy of that?

Mr. STEINBERG. I have one copy of the compendium with me, sir.

Senator MATHIAS. Well, at your pleasure.

Mr. STEINBERG. Yes; I shall submit a copy of my paper.

My short view is this: That even in the mother country of the common law—and I must say I am not a lawyer—even in the mother country of the common law, the right to keep and bear arms, to my knowledge, was not an absolute right, and certainly isn't now. You can go all the way back, Mr. Chairman, to I think the 14th or 15th century in Great Britain and you will find evidence that they did not regard the right to keep and bear arms as an absolute right.

To whatever extent the right to keep and bear arms is a constitutional right—and I have challenged that interpretation of it—but to whatever extent it is a constitutional right, it is not an absolute right, just as the right to freedom of speech is not an absolute right. You are not allowed mischievously to shout "fire" in a crowded theater. And the right to the free practice of religion is not an absolute right. You have no right to practice polygamy as part of your religious practice.

I would conclude these remarks on the second amendment by referring to the preamble of the Constitution. As a nonlawyer, I have forgotten to what extent the preamble has any legal enforceability, but it certainly reflected the spirit of the founders. As I recall, they referred among other objectives, to domestic tranquility and the general welfare. These are mandates that we seriously ought to consider as we interpret the second amendment.

Senator MATHIAS. Now, finally, there is throughout the literature on this subject the reference to State and local laws and there has been some activity in that field.

Is that an adequate step forward in protection?

Mr. STEINBERG. We need adequate State and local laws that reflect the special circumstances of those jurisdictions.

I am glad to say that there is a lot of attention being given in various parts of the country to stricter firearms regulation needed in these areas. However, it may surprise you, Mr. Chairman, and others who know of my deep involvement with this issue, to hear that I am not pleased by the kinds of additional regulation which many localities have sought or established.

My statement, for example, says that if I had been voting on the village board in Morton Grove, Ill., on that measure to ban the private possession of handguns in Morton Grove, I would have voted "no." And if I had been voting in my native Massachusetts, in that referendum, which I think was in 1976, to ban the private possession of handguns in that State, I would have voted "no". The reason is that such measures do not respect the rights—I do not regard them as constitutional rights—but the rights and privileges of responsible, skilled, careful, law-abiding Americans to possess these firearms if they feel it is in their special interest to possess these firearms.

There are many gun owners out there, Mr. Chairman, who are as much concerned over the violent misuse of guns as anybody else is.

I think that their rights and their privileges ought to be respected. And I must confess, looking back over the past couple of decades of my involvement with this issue, that there are too many instances where advocates of strict gun control, or handgun control if you wish, have by what they have said, by what they have advocated, tended to alienate a lot of public spirited, responsible, rational, careful, law-abiding gun owners.

I think there is need for all of us public-spirited citizens, gun owners and nongun owners alike, to come together in a feeling of mutual respect, addressing the total public interest, and devise ways and means through Federal law, through State law, through local law, to deny easy accessability of all kinds of firearms to people who lack the crucial qualifications for responsible possession and use.

May I make just one more comment, Mr. Chairman. I see in front of me these petitions and I am very glad that this kind of effort was made to bring to the attention of your committee the feelings of so many of our fellow citizens.

I recall a day in 1968 when our mutual friend, Jim Bennett, presented to the Senate Judiciary Committee, and that same day to Speaker McCormack, boxes and suitcases, indeed, full of petitions seeking adequate, reasonable, sensible, gun control legislation. We had over 1 million petitions that year. We were concerned with the need to address the problem of all kinds of firearms in the wrong hands. In conclusion sir, the campaign for strict gun control has been for me a very disappointing one because so little has been accomplished. And maybe part of the reason rests not only with the National Rifle Association and other sectors of the so-called gun lobby, but part of the reason may very well rest with the gun control movement itself: That we ourselves have not done an adequate job, an adequate job in reflecting what the public opinion polls have shown for decades. And that is that the American people want effective firearms regulation addressing not just handguns in the wrong hands, but all guns in the wrong hands.

Senator **Mathias**. Thank you very much, Mr. Steinberg.

Your last statement, which reflects some understandable frustration, reminds me of Phil Hart who sat on this bench with great distinction for so many years.

Mr. **Steinberg**. Yes, sir.

Senator **Mathias**. And when he would feel downhearted, disappointed, frustrated, by his inability to move this committee, or to move the Senate or the Congress, to the action that he thought we should be taking, he would shake his head and reflect and say: "Well, after all, it took the human race 8,000 or 9,000 years just to learn to read and write."

So, perhaps it is understandable that it is going to take us a few weeks or a few months or a few years to do what needs to be done in this particular field.

We are grateful to you and to all of the witnesses who were here today.

[The prepared statement and compendium submitted by Mr. Steinberg follow:]

PREPARED STATEMENT OF DAVID J. STEINBERG

Testimony of David J. Steinberg, Acting Chairman, National Council for a Responsible Firearms Policy, in hearings on handgun control before the Subcommittee on Criminal Law of the Senate Committee on the Judiciary, May 5, 1982

The National Council for a Responsible Firearms Policy is a private, nonprofit organization dedicated to strict, reasonable regulation of the private possession of firearms in the overall public interest. It is neither "anti-gun" nor "pro-gun", terms commonly used to identify opposing camps in the heated controversy over "gun control". It is "anti" the easy accessibility of guns of all kinds to persons lacking the crucial credentials for responsible possession and use of such powerful weapons. It is "pro" policies that strictly limit legal firearms possession to those who possess these crucial qualifications, holding such persons strictly accountable for the safe possession, legal use and legal transfer of these weapons.

The Long and Short of Gun Control

Of all the organizations (national, state and local) concentrating on advocacy of some form of "gun control" as their sole issue, our Council is the only one whose concerns and programs encompass all forms of firearms-related violence, not just handguns alone. We began with this perception of the "gun control" issue when the Council was formed in 1967 under the leadership of the late James V. Bennett, an outstanding figure in the field of criminal justice who for 27 years had been Director of the Federal Bureau of Prisons. I personally began my active involvement with this issue over 20 years ago. My concern was the violent misuse of all kinds of firearms and the easy accessibility of all kinds of guns to all kinds of people for all kinds of purposes (even though what immediately prompted my involvement was a gun-related tragedy involving a handgun). Nothing has warranted our modifying the scope of our attention to firearms-related violence. That is, there is no persuasive reason for us to limit our attention to one type of firearm, to the exclusion of others.

Many more handguns than rifles or shotguns are used in violent crime. But what statistic on long guns are the strictly handgun-control advocates waiting for? If statistical comparisons are their sole guide, then is handgun control itself deserving of our energies, in view of the fact that fewer than one half of one percent of the 60 million handguns privately owned in this country are used in violent crime? The incidence of all forms of firearms violence is shocking enough (approximately 4.5 million victims in the last 18 years), and the uniquely destructive potential of all firearms is powerful enough, to justify a determined effort to go as far as a rational, responsible society can go to stop the easy accessibility of guns of all kinds to persons who by any reasonable standard should not have them.

Are we to be justly concerned over the use of handguns in the attempts on the lives of Presidents Reagan and Ford, and forget that President Kennedy was killed with a rifle? Are we to be justly concerned over the use of a handgun in the murder of Dr. Michael Halberstam, and forget that Dr. Martin Luther King was killed with a rifle? Are we to be justly concerned over the murder of John Lennon with a handgun, and forget that Todd McKinney, an Annandale (Va.) newsboy, was killed with a shotgun? Political realities may, for a time, limit further gun-control legislation to handguns alone (we recently witnessed an effort by advocates of stricter controls on handguns alone to limit to rifles and shotguns the outrageous Senate bill that would seriously weaken the Gun Control Act of 1968). But we must not relinquish our responsibility to hold high the standard of the total public interest (and seek legislation that meets this standard) so that the American people may guage how far short of this objective their political representatives have seen fit to stop.

Protect the Rights of All Americans

In this connection, is it impolitic or improper (I hope you don't think it impolite or impudent) to wonder out loud how far toward the total public interest this subcommittee is bent on going in determining what action is needed in this field? The parent Committee on the Judiciary has recently given us cause for concern as to its own inclinations by giving overwhelming support to a special-interest bill (S. 1030, "The Firearm Owners Protection Act") whose sole, declared purpose is "to protect firearms owners' constitutional rights, civil liberties and rights to privacy" -- a bill that thwarts the total public interest by seriously weakening our already inadequate federal firearms-control policy. If the rights and civil liberties of gun owners do in fact need further protection (gun owners should have all the rights and liberties to which they are entitled), so do the rights and liberties of all Americans, gun owners and non-gun-owners alike, in the face of the firearms violence that threatens them all. Prominent in these rights and liberties is the right to protection against the easy accessibility of the most destructive of personal weapons to persons who lack the crucial qualifications for responsible possession.

"The issue," a sponsor of S. 1030 has said, "is freedom." If this indeed is the issue, it is freedom for all Americans, not for some at the expense of others. Or, to put it differently: if the rights of gun owners do need strengthening, we should not throw out the baby with the bath water.

Could not the Committee on the Judiciary have waited to get a total package of proposed reform reflecting the deliberations of the Subcommittee on Criminal Law and any other appropriate subcommittee, so that it might show some semblance of addressing the total public interest? And what of the White House? The President supports S. 1030 in its original form, even without the slight changes that would somewhat tighten existing federal law but only marginally redeem the bill. Should we not expect greater concern with the rights of all Americans from the only sector of our government that is chosen in a national ballot? The last President who understood the imperatives of the total public interest in this policy area was Lyndon Johnson.

The gun-control movement, even the handgun-control movement per se, has significant shortcomings in its supposed concern with the public interest. Except for what my Council has diligently advocated, the gun-control (or handgun-control) movement has not consistently sought to raise the sights of the American people and of all levels of government to what is urgenty needed in the interest of all Americans, those who own guns as well as those who do not. The dialogue in the heated debate over firearms possession is too much a confrontation between the so-called "pro-gun" forces and the so-called "anti-gun" forces -- a face-off that produces great theater but little progress toward a safer society.

Gun-control proponents, almost without exception, tend to welcome automatically anything identifiable as tighter control even if it unfairly disadvantages responsible, skilled, law-abiding gun owners. Thus, the effort to ban private possession of handguns in Massachusetts via referendum was deemed worthy of support; the new law in the District of Columbia prohibiting the registration of handguns following a cut-off date was hailed, also more recently a similar law in Chicago and the widely publicized handgun ban in Morton Grove, Illinois. If I had been a voter in Massachusetts, a councilman in Washington or Chicago, or a member of the village board in Morton Grove, I would have voted "no" on those measures, because they are unfair to highly qualified individuals who should not be denied possession. Ways to strictly limit legal possession of guns to qualified, responsible persons are the way to go. Knee-jerk responses on any side of this debate are regrettable. Gun-control advovates too often alienate reasonable, responsible gun owners who are as much concerned with the need for sensible firearms regulation as anyone else.

It is worth noting that none of these jurisdictions, and none anywhere else, shows signs of caring how guns are kept and of seeking state or local codes of responsible gun ownership setting standards for safe, responsible possession of these powerful weapons. Our Council has long pursued such a public-awareness campaign.

Federal Legislation

The basic reform our Council seeks in federal law is (a) requirement of a license for legal possession of a gun, establishing minimum federal standards for state licensing systems, and (b) some means of holding every legal gun owner strictly accountable for the safe keeping, legal use and legal transfer of every gun he or she owns until the gun is legally disposed of or its loss or theft is reported to the police (gun registration seems essential to such accountability). Such a licensing requirement might permit dispensing with the current prohibition against interstate transfers not involving certified gun dealers, and with the record-keeping requirements on sales of ammunition. Many features of the Kennedy-Rodino bill (S.974) belong in the new legislation we believe is necessary. But the Kennedy-Rodino bill has not been the legislation on which we have set our sights. We have seen it as legislation we may have to settle for after a determined effort to get what we believe the total public interest demands.

At the present time, it seems that the Kennedy-Rodino bill is the most we can get in the next few years on the public-interest side of the gun-control ledger. Our Council therefore recommends that the Subcommittee report it out after possibly improving it with such modifications as may merit adoption in the overall public interest. Rejection of the basic provisions of such a bill by the parent committee would only underscore the impression the committee has thus far created that its concern with the rights and liberties of all Americans -- not just some Americans at the expense of most Americans -- is seriously wanting. If any gun bill goes to the floor, both S. 1030 and S. 974 should do so. We would then see how the Senate performs by the standard of the total public interest.

As for S.2507 of the 92nd Congress (one of the proposals the chairman has indicated merits consideration at this time): Our Council supported this attempt in 1971-2 to plug a serious loophole in the 1968 law -- the loophole that allows imports of parts for so-called "Saturday Night Specials" to circumvent the law's ban against imports of such handguns. We supported the bill (which passed the Senate after a sweetener was added concerning record-keeping on retail sales of .22 rimfire ammunition), but without illusions as to how much this measure would contribute to what the nation urgently needed in firearms regulation. Today, ten years later, we do not urge enactment of such a bill in and of itself. A ban on imports of parts for assembly of guns that no sensible, responsible gun owner would want to own should be part of a broader bill that truly addresses the nation's needs in this policy area.

We take this position on a separate bill like S.2507 because whatever "gun control" bill passes Congress this year is likely to be the last "gun control" legislation for a decade or more (14 years have already passed since the last statute identifiable as "gun control" legislation). The legislation for the 1980's which the "gun control" campaign will have to settle for should not be as inadequate as the likes of S.2507. To enact a bill like this and call it progress, however limited, toward tighter firearms regulation would undermine the efforts that must be made to get legislative reforms that more suitably address the imperatives of public safety. The cost in human tragedies from neglect of these more far-reaching measures would far outweigh any benefits likely to result from enactment of a bill like S.2507.

Strict gun control along the lines we have proposed is certainly not the alpha and omega of what needs to be done to combat firearms violence. But it is indispensable to the answer that urgently needs to be found.

The Attorney General's Task Force on Violent Crime

Although the Task Force proposals on firearms policy, for the most part, merit support as far as they go, they do not in important respects go far enough -- even on handguns alone, to which the Task Force confined its attention. I take serious exception to the Task Force decision to propose only such gun-control reforms as it deemed "politically feasible". Political feasibility was not for such a collection of professional talent to establish as a guiding principle. The Task Force, possessing an extraordinary opportunity, should have undertaken to raise the sights of the nation to what the nation urgently needs in this policy area, and to suggest the best ways to secure this objective. Political feasibility is something for the political branches of government to assess. Thus, complete neglect of the use of long guns in violent crime, and of measures like licensing and personal accountability even on handguns alone, are serious shortcomings in the report.

I take exception to the Task Force assertion that it is not necessary for individuals to report the resale or gift of handguns to other individuals since the Bureau of Alcohol, Tobacco and Firearms (ATF) "have testified that this type of transaction can be easily traced under existing law." Not only do I challenge the substance of the Task Force position; I am also advised by the Director of ATF that he knows of no testimony by Bureau officials indicating that transfers of handguns between individuals are easily traced under existing law. "In fact," he has written me, "the opposite is true -- it is very difficult to trace transactions that occur beyond the retail outlet." The Task Force assertion that "expert testimony before us indicates that the records currently kept by manufacturers and dealers, if enhanced by reporting of thefts and losses to the NCIC, would provide an adequate trace capability" says little for some of the expert testimony the Task Force said it heard or for the Task Force's interpretation of what these experts said. Beyond this, the Task Force view of registration as simply an instrument for tracing firearms neglects the total concept of firearms accountability which our Council pioneered and which, incidentally, is almost totally neglected in the dialogue about private possession of firearms.

Does the Second Amendment Mean What It Says?

by **DAVID J. STEINBERG**
Executive Director
National Council for a Responsible Firearms Policy

> "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."
>
> - Second Amendment, the U.S. Constitution

The "right of the people to keep and bear arms" is part of the Bill of Rights. It stands alongside the First Amendment's rights of freedom of speech, press, religion, and assembly. Opponents of strict or any regulation of private possession of firearms regard the Second Amendment as no less important than the First, indeed as a defense against a tyrannical government that would deprive the people of the basic rights for which a revolution was fought and an independent nation founded. Regardless of the degree of gun control any of us may prefer, it is essential that the meaning and intent of the Second Amendment be clearly understood, and its mandate carried out.

100 Years of Court Decisions

Although a lively debate has raged over the purpose of the Second Amendment, the nation's courts—federal and state alike—have been in basic agreement on this subject for as long as judicial judgments have been made on contentions that the Second Amendment establishes a personal right to have firearms, free from government regulation. Such decisions go back more than 100 years. The Supreme Court's first decision in this field was in 1875 in *United States v. Cruikshank*. Here the Court found that the right to keep and bear arms was not a right granted by the Constitution, was not dependent on the Constitution for its existence, was protected only against infringement by the federal government, and in any case its application to personal rights was only in the context of the freedom of the states to have their own militias. That is, the right of the individual to have firearms was given constitutional protection only to the extent that the right of the particular individual to have a gun was essential to the ability of the state to have an effective militia.

The significance of this relationship of the individual to the organized militia is better understood when one recalls the nature of the armed forces

Reproduced, with permission, from Engage/Social Action (May 1977), a periodical of the Board of Church and Society of the United Methodist Church, Washington, D.C.

(i.e., the land forces) in the early years of the nation's history.

Bone and Muscle of the Infantry

There was no national standing army at the time the Second Amendment became law (1791) and there would be none of any consequence for over 100 years. The state militias were the bone and muscle of the nation's infantry both during and after the Revolution. Fear of a national standing army with any real strength permeated attention to the military powers of the national government and the various state governments. The basic Constitution, in Article I, Section 8, empowered Congress to provide for "calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions," and for "organizing, arming, and disciplining the militia." The state militias were by no means regarded as the sole instrument of national defense. They were, however, regarded, not only as a vital national resource, but as the sole defense of the states against national encroachment.

At that time, and for about another hundred years, the firearms used in the state militias were mostly those brought into such service by the citizen soldiers themselves. If these men didn't have guns, the militias could hardly be effective. Thus, the "right of the people to keep and bear arms" was essential to the viability of the "well-regulated militia," which in turn was "necessary to the security of a free state."

Those who interpret the Second Amendment as providing only for a state's right to have a militia see only half the picture, omitting the Amendment's implication that private possession of guns is basic to the existence of such militias (at the time the Amendment was adopted and for many years thereafter). Those who interpret the Second Amendment as providing or protecting the individual's personal right to have firearms see only the other half of the picture, omitting the component that the individual's right to have a gun must be shown to be essential to the formation of an effective militia.

If, as now and indeed ever since Congress in 1903 established state militias known as the National Guard, the arms used by the state militias are entirely provided by the government, the right of the people to keep and bear arms appears to lose whatever meaning it once had as an individual right protected by the Constitution. The 1903 act also provided for a reserve militia consisting of all able-bodied men between 18 and 45 who were not members of the organized militia. But no firearms were issued to them in this reserve status. Nor are reservists expected or required to have and bring their own.

Title 10, Section 311

Many opponents of gun control make much, in fact too much, of Title 10, Section 311 of the United States

Code in their attempt to prove that the militia is not limited to the National Guard—namely, that there is an "unorganized militia" and that under the Second Amendment every member of it has a constitutional right to have firearms. Title 10, Section 311, states that "the militia of the United States consists of all able-bodied males at least 17 years of age and . . . under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States."

Those who cite that regulation in the debate on gun control interpret it to mean that every such person, in fact every adult citizen, has a Second Amendment right to a gun to protect himself or herself against violent harm to themselves, their families and their communities. The police, they contend, are not always available. When widespread violence occurs, the National Guard and other military forces may be preoccupied elsewhere. In this light, the National Rifle Association sees the armed citizen as "a potential community stabilizer" whether as a civilian member of an organized posse or simply as a member of the "unorganized militia." In some renditions of the right to keep and bear arms, the armed citizen is seen as "a vital last line of defense against crime, federal tyranny, and foreign invasion"—the people's "ultimate check against abuses by their government," including abuse of power by a militia.

"Well Regulated" Militia

Whatever the merits of such notions about personal and national security (they are, to say the least, highly questionable in this day and age), it is important to note that the only kind of militia the Second Amendment expressly regards as consistent with security is a "well-regulated" militia. One may rationally and reasonably conclude that this applies both to an organized militia and an unorganized one. Otherwise, an armed citizenry consisting of men and women using guns for presumed high purpose according to their respective dictates of personal whim and political fancy is the stuff from which anarchy could result, and in turn the tyranny against which the private possession of guns is supposed to protect Americans.

The right to keep and bear arms (a term that connotes a military purpose) stems from the English common law right of self-defense. However, the possession of guns in the mother country of the common law was never an absolute right. Various conditions were imposed. Britain today has one of the strictest gun laws in the world.

There is nothing absolute about the freedoms in our own Bill of Rights. Freedom of speech is not freedom to shout "fire" in a crowded theater. Freedom of religion is not freedom to have multiple spouses, or sacrifice a lamb in the local park, as religiously sanctioned practices. Similarly, whatever right the Second Amendment protects regarding the private possession of guns, for whatever definition of "militia," is not an absolute right. It must serve the overall public interest, including (from the preamble of the US Constitution) the need to "insure domestic tranquility, provide for the common defense and promote the general welfare." Whatever right there is to possess firearms is no less important than the right of every American, gun owners included, to protection against the possession of guns by persons who by any reasonable standard lack the crucial credentials for responsible gun ownership.■

Senator **Mathias**. The committee will stand in recess, subject to the call of the Chair.

[Whereupon, the subcommittee recessed, subject to the call of the Chair, at 12:15 p.m.]

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MAY -4 1982

Dear Mr. Chairman:

As the Treasury Department Officer responsible for enforcement matters, Secretary Regan has asked me to respond to your letter of April 9 which informs us of the Senate hearing on May 5 on the issue of handgun control and requests Treasury's views on certain proposed firearms legislation. Since I am unable to attend on that date, your staff was kind enough to agree to a letter from me instead of a personal appearance.

The Treasury Department is charged with the enforcement of firearms statutes. This mission is presently carried out primarily through the investigations and operations of the Bureau of Alcohol, Tobacco and Firearms (ATF). When assessing the merits of proposed firearms legislation, we naturally focus primarily on whether the bill in question strikes a proper balance between the necessary authority to investigate the criminal misuse of firearms and the protection of the rights of law-abiding citizens to own and use firearms.

Thus, without commenting specifically on the legislation you refer to in your letter of April 9, such proposed statutes must be consistent with Administration firearms policy as expressed in a letter dated April 19 (copy enclosed) from Edwin Meese, III, Counsellor to the President, to Senator Strom Thurmond. While Mr. Meese's letter deals only with the proposed Federal Firearms Owners Protection Act (S1030 Hatch Substitute), the policy guidance in the letter also provides insights into the Administration's position on other proposed firearms legislation.

I am confident that the legislative process will produce firearms legislation that strikes the appropriate balance between the needs of criminal enforcement and the protection of law-abiding citizens who own and use guns. Please be assured that when such legislation is passed by Congress and signed by the President, the Treasury Department is pledged to full enforcement of the law in letter and in spirit.

Sincerely,

JMWalker Jr.

John M. Walker, Jr.
Assistant Secretary
(Enforcement and Operations)

The Honorable
Charles McC. Mathias, Jr.
Chairman, Subcommittee on
  Criminal Law
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Enclosure

THE WHITE HOUSE
WASHINGTON

19 April 1982

The Honorable Strom Thurmond
U. S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This will respond to your request for the Administration's position on the Federal Firearms Owners Protection Act, which is now awaiting mark-up in your Committee.

The President's position on firearms regulation is, I think, well known. He strongly rejects the notion that registration of weapons is either necessary or desirable and believes that mandatory sentences for those who use firearms in the commission of a crime is a preferable way to approach the problem of firearms abuse.

As with other areas of federal regulation, he believes that in the past firearms regulators have too often lost sight of their ultimate objective and have misused their authority to search for minor technical infractions by otherwise law-abiding sportsmen, collectors, and dealers instead of concentrating on firearm violations by criminals. The administration's policy, therefore, is to redirect its enforcement focus away from the former toward the latter.

Toward that end, the President remains committed to the de-regulation of law-abiding gun owners, such as that called for by the proposed Federal Firearms Owners Protection Act. At the same time, the Administration has proposed a reorganization of the Bureau of Alcohol, Tobacco, and Firearms that would, among other things, prevent the possible misuse of authority and enhance the ability of the Treasury Department to refocus its enforcement efforts against criminals.

We would like to see both elements of this policy move along together and as in the past will continue to work with the Congress and interested outside parties to accomplish our common goals.

Sincerely,

Edwin Meese III

EDWIN MEESE III
Counsellor to the President

AMERICAN MEDICAL ASSOCIATION
535 NORTH DEARBORN STREET • CHICAGO, ILLINOIS 60610 • PHONE (312) 751-6000 • TWX 910-221-0300

JAMES H. SAMMONS, M.D.
Executive Vice President
(751-6200)

May 14, 1982

The Honorable Charles McC. Mathias, Jr.
Chairman, Criminal Law Subcommittee
Senate Judiciary Committee
2226 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Handgun Control Hearing of May 5, 1982

Dear Chairman Mathias:

The American Medical Association takes this opportunity to submit this letter for inclusion in the record for the hearing held on May 5, 1982, concerning handgun control.

The AMA has long been concerned with the proliferation of handguns and their use in the commission of criminal acts. In both 1973 and 1979, the AMA's House of Delegates called for "strict penalties for the use of firearms in the commission of crime." Last December, the House of Delegates called for "stricter enforcement of present federal and state gun control legislation and the imposition of mandated penalties by the judiciary for crimes committed with the use of a handgun."

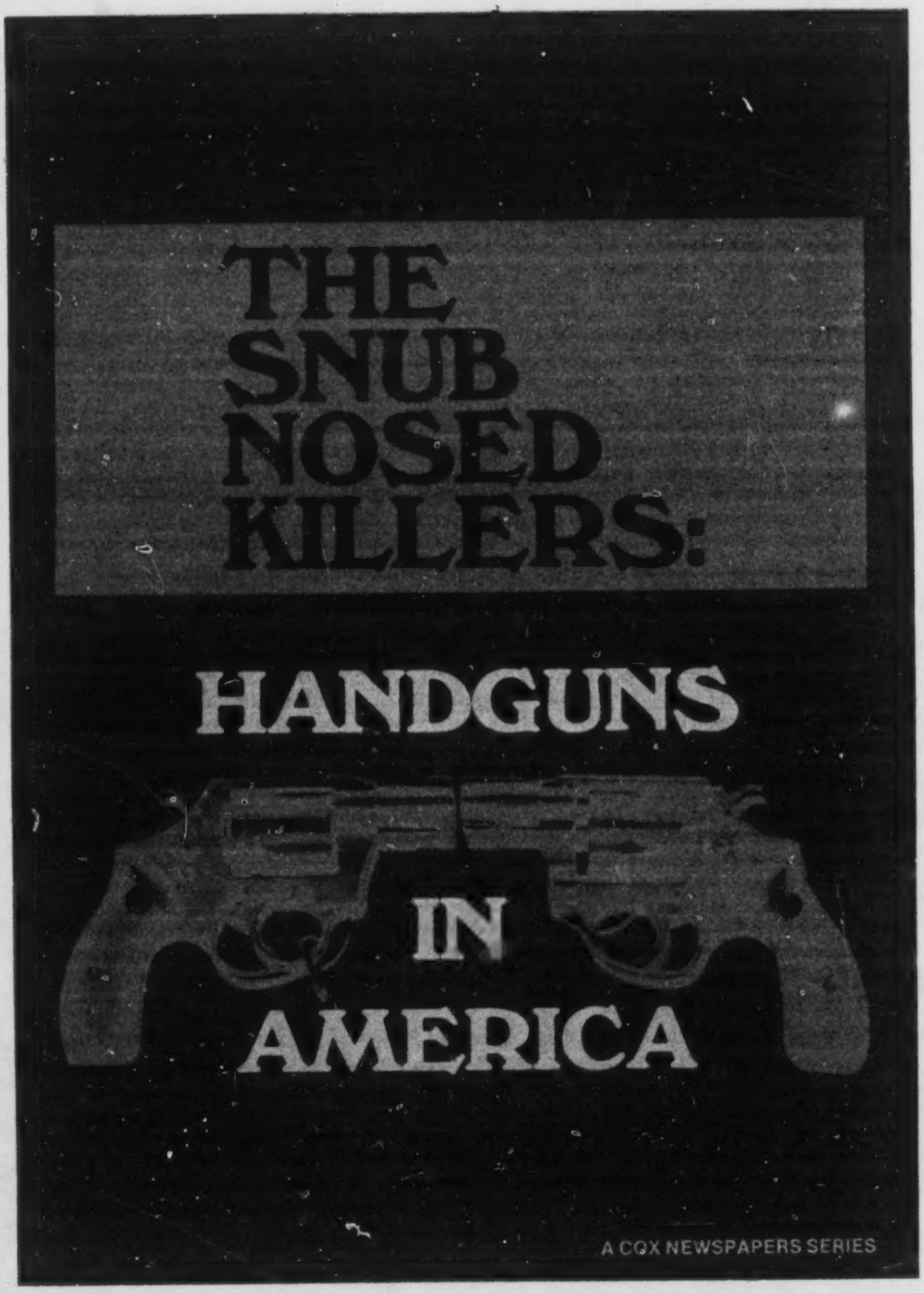
The American Medical Association urges that a clear statement be issued that inappropriate use of firearms will be punished. Crime statistics for 1980 for the United States leave no doubt that the illegal use of firearms is rampant. Of the 1,225,626 murders, assaults, and robberies committed in 1980, a firearm was used in over 390,000 incidents; of the 21,860 murders in 1980, the weapon of choice was a firearm in 62.4% of the incidents, with handguns actually being used to commit 10,930 murders. It is our belief that a clear and unequivocal direction to the judiciary requiring imposition of strict penalties for the use of handguns in the commission of a crime would be an appropriate step to diminish these staggering figures.

The AMA is concerned with the increasing use of firearms in an unlawful manner. Their widespread presence can leave the unfortunate impression that their unlawful use is not a serious offense and can add to the increasingly violent nature of our society. We believe that strong laws calling for mandatory penalties in situations where a handgun is used in the commission of a crime could serve to limit the inappropriate use of handguns.

Sincerely,

James H. Sammons, M.D.

JHS:jg



THE
SNUB
NOSED
KILLERS:

HANDGUNS
IN
AMERICA

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This booklet reproduces "The Snub Nosed Killers: Handguns in America," a series of articles which appeared in the Cox Newspapers in the fall of 1981.

For more than a decade, the gun control debate in the United States has been bogged down over such issues as registration and confiscation of weapons and the question of the people's right to bear arms. Much of the controversy resulted from a lack of basic information about what type of guns are actually used in crimes, where and how criminals obtain their weapons and the way these guns move through our society.

For the first time, this series attempts to provide these key facts in a comprehensive and intelligible manner.

Our reporting effort led us into the weaponry of American crime, the inner workings of the legitimate gun industry and the murky world of gun smugglers.

Using the Freedom of Information Act, we obtained government computer tapes imprinted with detailed descriptions of 14,268 handguns which had been confiscated by police and federal agents. We hired a consulting firm to process 250,000 blips of information on the tapes -- thereby creating an unprecedented profile of criminal handguns.

It showed that the overwhelming weapon of choice among both street criminals and assassins is a class of short-barreled handguns known as "Snubbies."

Joseph Albright, a two-time winner of the Sigma Delta Chi award for Washington reporting, initiated the series, working full time on it from late June until early September. In time, the Cox reporting team came to include three other reporters from the Washington Bureau: Andrew Alexander, Cheryl Arvidson and Henry Eason.

The New York Times and The Washington Post both have published editorials praising our work. Stephen Hess, a senior fellow at the Brookings Institution and author of "The Washington Reporters," wrote of this series in a recent article: "It is devastating. It is also the most sophisticated piece of investigative journalism I have ever seen."

Andrew J. Glass
Bureau Chief

December 1981

"SNUBBIES" the handguns criminals prefer

The Snub-Nosed Killers

Handguns in America

First in a series

By JOSEPH ALBRIGHT
Washington Bureau

WASHINGTON — With their slender butts and cute little muzzles, they look like toys. One flick on the trigger and out barks one-third of an ounce of lead at 735 miles per hour, shaped to plow a mushroom cavity into someone's gut.

They are the snub-nosed killers: a sub-species of feather-light, extra-short handguns that are inaccurate beyond the range of a card table.

As home-defense devices, they are less humane than electric stun guns, less reliable than full-sized pistols, and probably less effective than shotguns or German shepherd dogs.

Their advantage is they leave no unsightly bulges when they are concealed. Thus police detectives carry them in arm holsters. Store owners hide them in their belts. Mothers pack them in purses, occasionally using them to drive off muggers.

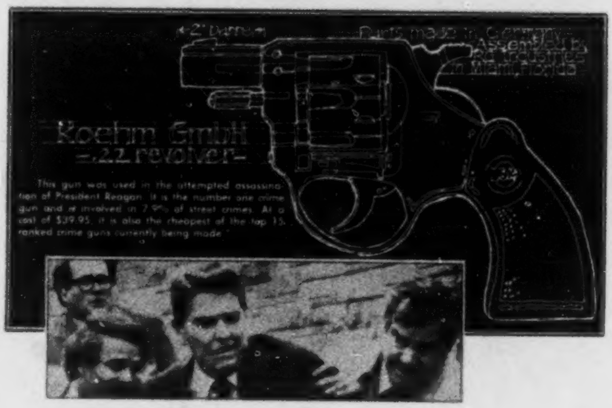
As this series of articles will show, snub-nosed guns — both cheap and expensive, domestic and foreign made — also have proven to be the overwhelming weapon of choice among modern criminals. Indeed, evidence from Atlanta, Miami and 16 other cities indicates that two out of every three handguns used in murders, rapes, robberies and muggings were "snubbies" — handguns with barrels protruding no more than three inches beyond the cylinder.

Short-barreled guns also run through the history of American assassinations. A search of historical records showed that since 1835, 10 out of 15 assassins and would-be assassins have chosen extra-small pistols in their assaults on presidents and other political figures.

The starting point for these articles is a 12-inch reel of vinyl computer tape imprinted with detailed descriptions of 14,268 crime guns. The guns were seized by police and federal agents in street crimes in 18 metropolitan areas during the first nine months of 1979. The records were funneled into a Treasury Department computer when local police departments called Washington to have the guns traced back to their manufacturer by contacting the department's Bureau of Alcohol, Tobacco and Firearms, known as ATF.

Under the Freedom of Information Act, The Cox Newspapers obtained a copy of the tape, after confidential information on the identities of retail gun dealers and gun purchasers had been elec-

This series of articles was prepared by four members of the Cox Newspapers Washington Bureau: Joseph Albright, Andrew Alexander, Cheryl Arvidson and Henry Eason. Also contributing were Tom Elias in California and Jack Knarr and Phil Stanford of the Miami News. Researchers: Diane Danielek, Janice Johnson and Helen McMaster.



This gun was used in the attempted assassination of President Reagan. It is the number one crime gun and is involved in 7.9% of street crimes. At a cost of $39.95, it is also the cheapest of the top 15 ranked crime guns currently being made.

tronically blocked out. A team of reporters and researchers then sorted the traced guns by makers and models, with the aid of American Management Systems, a computer consulting firm.

Once assembled, the 250,000 blips of information disclosed in unprecedented detail what kinds of handguns are instruments of crime, where they come from and how long they have been in circulation.

To complete this intelligence report on the weaponry of American crime, reporters also examined 20,000 gun manufacturing and importing records and conducted 75 on-the-record interviews with foreign gun manufacturers, wholesalers, dealers, illegal gun smugglers, law enforcement authorities, legislators and pro- and anti-gun lobbyists.

It proved impossible to extend the study to cover shotgun and rifle crimes, since nearly all the trace requests involved handguns. In any event, national Justice Department crime surveys indicate handguns account for more than three-fourths of all gun murders and assaults as well as more than 90 percent of all robberies in which a gun was used.

In describing various handguns, these articles refer to both pistols and revolvers. A pistol is a handgun whose chamber is integral with the barrel. A revolver is a handgun with a cylinder containing multiple chambers that can be discharged in succession.

The official records disclosed that:

- The country's leading crime instrument was a short-barreled, .22-caliber revolver assembled by the German-owned RG Industries Inc. of Miami. The company assembles the guns from sets of parts shipped from its German affiliate, Roehm GmbH. One out of every seven handguns seized by police in street crime cases was a Roehm-origin gun; one out of twelve was a Roehm .22-caliber model. RG Industries' fastest seller, a 2-inch-barrel .22 revolver called the RG 14, was the type of gun the FBI said was fired by John H. Hinckley Jr., accused of attempting to assassinate President Reagan last March. The gun retails for $39.95. (The Roehm GmbH gun firm described in this story has no connection with a larger and better known German company, also called Roehm GmbH, which manufactures plastics and pharmaceutical supplies.)

- Contrary to popular impression, most street guns are not cheap, low-caliber, foreign-origin "Saturday Night Specials." Of the 15 leading crime guns reviewed in The Journal-Constitution Washington Bureau analysis, only two — the Roehm .22 and the Tanfoglio .25 Titan — fit that exact description. Ten of the 15 leading crime guns were made in America out of U.S. gun parts. Of the American-made guns, seven were made by Smith & Wesson, Colt and Charter Arms, all makers of high-quality, relatively expensive guns. Seven of the 15 crime guns retailed for less than $100. The eight others range from $117 to $330. Ten of the 15 had a bullet size of .38 or .357 caliber; the rest were smaller.

> “*The country's leading crime instrument was a short-barreled, .22 caliber revolver assembled by the German-owned RG Industries Inc. of Miami.*”

- The second-ranking crime instrument was the snub-nosed, American-made, Smith & Wesson .38 caliber Chiefs Special. As the country's leading handgun manufacturer, Smith & Wesson advertises the Chiefs Special as a police "back-up" weapon. It also sells the gun to civilians through sporting goods dealers. In 1979, one out of five crime guns recovered by police was some kind of a Smith & Wesson. One of 17 was a Smith & Wesson Chiefs Special or one of its virtually identical variants. The Chiefs Special, which is less than half the weight of the traditional Colt six-shooter, sells for $170 to $240.

- Both the RG Industries .22 and the Smith & Wesson Chiefs Special are examples of snub-nosed guns that are statistically more prone to crime than average handguns. About 4 percent of the handguns in circulation are Roehm-origin .22s, but they represented 7.9 percent of the handguns traced by police at crime scenes. Similarly, Smith & Wesson Chiefs Specials make up no more than 3 percent of the stockpile of handguns in the United States. But Chiefs Specials were traced in 5.9 percent of the 14,268 handgun-related crimes.

- One of 20 crime guns is a palm-sized, .25-caliber, automatic pistol — the Titan — selling for less than $75. The leading source is a pair of factories in Brescia, Italy, owned by Giuseppe Tanfoglio and his four children. Pistol parts from those factories are assembled into guns by two Miami assembly plants, Firearms Import & Export Corp. and Excam Inc. Virtually identical .25 palm pistols also are made by half a dozen American companies, including Raven Arms of Industry, Calif., Bauer Firearms of Fraser, Mich., and Sterling Arms of Lockport, N.Y.

- Guns manufactured by Sturm, Ruger & Co., a firm that specializes in long-barreled target and hunting pistols, are much less prone to become involved in crimes than average handguns. In 1979, the company sold 16 percent of all handguns throughout the United States — roughly the same market share it has held for two decades. Yet, only 3 percent of the handguns recovered at crime scenes in 1979 were Rugers. Company president William Ruger said his firm "does not make small pocket roscoes," slang for pistol. Asked why, he said: "Partly it was that I thought they were controversial and partly because I saw no sporting purpose in them."

- Recently purchased guns are more likely to be used as crime instruments than older guns. An ATF tabulation shows 18 percent of the crime guns traced in 1979 were a year old or less. The next largest category was two-year-old guns, representing 10 percent of the crime guns. After that, the percentages trailed off year by year — 6 percent of the crime guns were eight years old, 4 percent nine years old. It was almost as if guns had a kind of radioactive half-life as crime weapons. Although most crime guns were new, one murder weapon in Miami was a 1918 Colt .45, and one Atlanta robber used a 1917 Smith & Wesson .32.

In another indication of the crime prone tendency of smaller handguns, the main Smith & Wesson wholesaler in Miami, Sidney G. Davies, estimated in an interview that no more than 2 percent of the Smith & Wessons he distributes are snub-nosed models called the Chiefs Special, the Chiefs Special Airweight and the Bodyguard. Yet, federal records show that 24 percent of the 157 Smith & Wessons recovered in Miami murders, robberies and assaults were these light-framed "snubbies."

The Victims

The attempted assassination of Ronald Reagan will be recorded in history, but not so the names of Brett Rushing, Sondra Spearman, L.S. Spencer and Fenwick Langlanais. All four were killed within a short period before and after the Reagan shooting, each a victim of the same type of handgun allegedly aimed at the president — a Roehm RG 14.

Rushing, 34, died March 28, 1981, after being shot in his Memphis, Tenn., home. His wife was critically wounded. Police held Rushing's cousin, Mark Franklin Farrow, 27, in the prison ward at the hospital.

A witness said during dinner, Rushing asked Farrow to pass the biscuits, and Farrow then threw a biscuit at Rushing, exclaiming, "I'm tired of you making derogatory remarks about me."

A short time later, Rushing was dead, killed by a single shot in the right side.

Ms. Spearman, 28, of Tampa, Fla., also died March 28. She was shot in the face with a RG 14 during an argument with a neighbor. Police arrested the neighbor, Paulette Parks, 31, and charged her with first degree murder.

Spencer, 41, of Austin, Texas, was shot to death May 10 by his common-law wife, who apparently mistook him for a burglar. Spencer was trying to open the door of the house when he was killed. Police said Maud Nicely yelled, but when Spencer did not respond, she fired a Roehm RG 14 through the door. The bullet struck Spencer in the chest.

Langlanais, 67, of Port Arthur, Texas, died May 24 when he was struck in the chest by one of three shots fired from a Roehm RG 14. Police said the shooting occurred during a domestic quarrel at his home.

The History

Small, easily concealed handguns have been an American institution for a century. Through the years, they have been called "last chance guns," "suicide specials," "Lilliput pistols," "belly guns," "ghetto guns" and "the ace in the hole."

Only since the mid-1950s have they been called Saturday Night Specials, a name said to have been coined by Detroit police to describe the weekend traffic in cheap guns from Ohio.

The first was the single-shot percussion pistol, the Philadelphia Derringer, introduced in the 1820s by Henry Deringer.

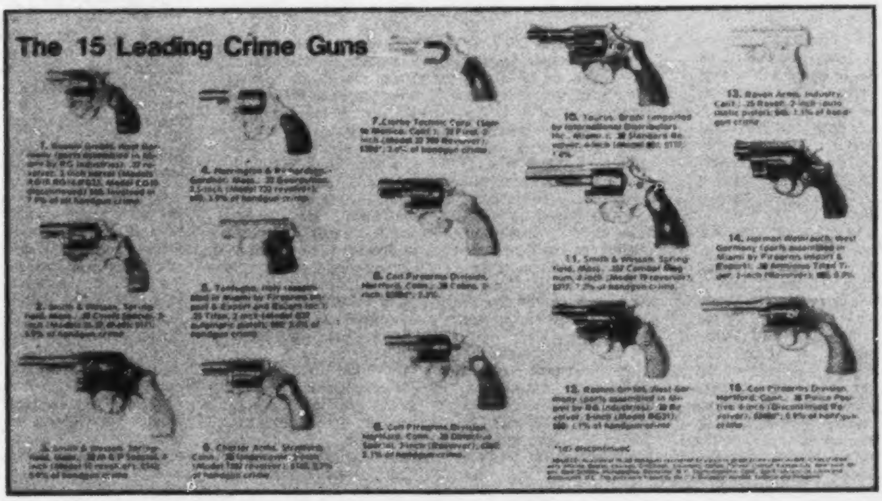
In "The Suicide Specials," considered one of the most authoritative histories written about the cheap small gun, Donald Webster wrote:

"From the early 1870s until about World War I, suicide specials were supplied to the public by every means possible. They were given away for cigar and later cigarette prizes, offered as presents to small boys as soap salesmen door to door."

Colt and Smith & Wesson held the initial U.S. patents on pocket-repeating pistols. When the patents ran out following the Civil War, dozens of companies sprouted up in the Connecticut Valley and elsewhere to turn out cheap copies. Of the companies that made the "Suicide Specials," the only two still in business are Harrington & Richardson of Gardner, Mass., and Iver Johnson Arms of Middlesex, N.J.

An 1887 Sears Roebuck Co. catalog listed a mail-order revolver called the "Blue Jacket Number 1." The price was 60 cents.

The first American snub-nosed model to achieve wide popularity was the 1895 Colt "New Pocket Revolver." Colt proclaimed in an 1895 newspaper ad: "Always ready! Perfect Safety! Absolute Accu-



The 15 Leading Crime Guns

racy!"

World War I and World War II brought flows of imported weapons into this country, some of fine quality and others aptly called "junkers." The flow of cheap imports grew to a torrent during the American civil rights rioting of the mid-1960s, a decade during which U.S. per capita handgun ownership jumped by 50 percent. A 1968 federal gun control law shut off imports of small pistols but left open a loophole for the importation of sets of pistol components.

Recent federal studies show there are now about 54 million pistols and revolvers in the United States. In 1955, there were only 16 million, the Bureau of Alcohol, Tobacco and Firearms estimates.

There is no telling exactly how many of these are short-barreled "snubbies." Ruger, who heads the second-largest U.S. handgun manufacturing company, estimated that "perhaps one third" of 2.1 million handguns sold last year had barrels three inches long or shorter. James Oberg, the president of Smith & Wesson, said Ruger's estimate "could be about right."

Handguns of all sizes were the instruments of 10,000 murders and another 550,000 crimes of violence, according to 1977 estimates based on a crime victimization study by the U.S. Law Enforcement Assistance Administration.

This means that in a given year, one out of every 100 handguns in the nation's private handgun stockpile was involved in a crime.

In a May article in the Annals of American Political Science, Philip Cook, a professor at Duke University who specializes in criminal justice issues, wrote: "If current rates of handgun violence persist, the approximately two million new handguns sold this year will eventually be involved in almost 600 thousand acts of violent crime."

Even so, there has never been any rock-solid proof that the increase in the national handgun population has contributed to the increase in violent crimes during the last 25 years.

The closest the government has come to an official pronouncement on the question came in 1979 when a U.S. surgeon general's report said:

"Many factors undoubtedly are involved in our high homicide rate. Economic deprivation, family breakup, the glamorizing of violence in the media, and the availability of handguns are all important. . . Easy access to firearms appears to be one factor with a striking relationship to murder. From 1960 to 1974, handgun sales quadrupled. . . During that same period, the homicide rate increased from 4.7 per 100,000 to 10.2 for the overall population — and from 5.9 to 14.2 for young people aged 15 to 24."

Plant in West Germany made parts for .22 revolver used to shoot Reagan

Roehm: "I want to make better guns"

HENRY EASON
Cox News Service

SONTHEIM, West Germany — On the outskirts of a Swabian village that rises in medieval quaintness from a sea of swaying wheat and hops, machines roar in a factory. It is here that the parts were made for the gun the FBI says was used to shoot President Reagan.

At lunchtime, a siren blares with a sound like a World War II air raid warning. Workers leave tidy, squat, modern buildings, pass under the "Roehm" sign above the plant gate and picnic on the grassy bank of a stream just beyond the employes' parking lot.

The setting is far removed from the street violence in America, where the products of their labor are referred to by police authorities as "Saturday night specials."

Roehm.

It is a name which, to German customers, means quality drill chucks and other machine tools. Tool and machine-making factories which branch off from the Sontheim-based Roehm GmbH company are in West Germany, France, Italy, Brazil, Denmark and Great Britain. Roehm is a major international competitor in the machine tool field, with sizable sales to American industry. (The company described in this story has no connection with another German company, also called Roehm GmbH, which manufactures plastics and pharmaceutical supplies.)

Roehm also means target pistols and blank pistols throughout Europe and in other countries where handgun control laws strictly regulate concealable pistols and revolvers that use live ammunition.

It is in America that Roehm's cheap .22 caliber revolvers and other live-ammunition handguns attained notoriety long before John Hinckley Jr. was indicted on charges of firing one into the president of the United States.

In 1979, Roehm-made .22 caliber revolvers were the instruments in one of every 12 street crimes in

A worker makes gun parts in Roehm's Sontheim plant

which police found a handgun, a computer study by Cox Newspapers of handgun crimes in Miami and 17 other cities showed. No other manufacturer's gun was so frequently found at crime scenes.

As a result of worldwide publicity turned on the Roehm RG 14, which the government says was used in the Reagan assassination attempt last March, the Roehm family says it has decided to scale down production and sales of its least-expensive guns.

Guenther Roehm, a principal officer and stockholder in Roehm GmbH and a part-owner of RG Industries Inc. of Miami, which assembles the cheap handguns, said that continuing to make revolvers such as the RG 14 "is not good for us."

In the first interview granted by any official of the company in more than a decade, Roehm said he is concerned about what he called "an image problem" — one that might give Roehm GmbH a bad name with its machine tool clients and with customers interested in the more expensive handguns that Roehm also sells.

Roehm is a tall, patrician figure who, at 56, has the polished manners of a European diplomat. He speaks English accurately, but haltingly, and was interviewed with the aid of his export manager, Karl Mack.

He is descended from generations of industrialists in Zella Mehlis Suhl, in what is now East Germany. After World War II, he recalled, the Roehm family's factories were in ruins.

The "Americans picked us up because they were not interested to have good companies with high level of production in the East Zone (under Soviet control). So they say 'take your technical people along with you.'... So we came to a camp in Heidenheim (near Sontheim), and the Americans gave us food.... So we looked around and ... we found a small room and we started making our tools again."

The old customers soon returned to Roehm, joined by new customers. Some Americans came in the 1950s and interested the Roehms in manufacturing inexpensive handguns for the market in the United States. It was a good market.

Then, as Roehm explained, when the gun control movement gained strength in the United States and cheap exports were banned in 1968, the Roehms became involved in producing some handgun parts here which were added to other parts in Florida to make complete handguns that could be sold legally in America.

"So what you want to know," Roehm said, anticipating the question, "is do we go into this cheap business or do we intend to go the other way?

"We want to go in the other way. I have been (to Florida) four weeks ago and I explained to my people there, I want to make better guns, guns I can sell in five, six, eight years in the same way, good guns. We change the finish. We made more precision in the parts and so on. Sometimes the Americans want to go in another way. We want to go in this way, making better guns."

"We are satisfied with a small part of the business. We want to make good guns because our main business is with (drill) chucks and we don't want to have a bad name with that.... Our image in this country is good and we have a good image in our main line (of tools) all over the world," he said.

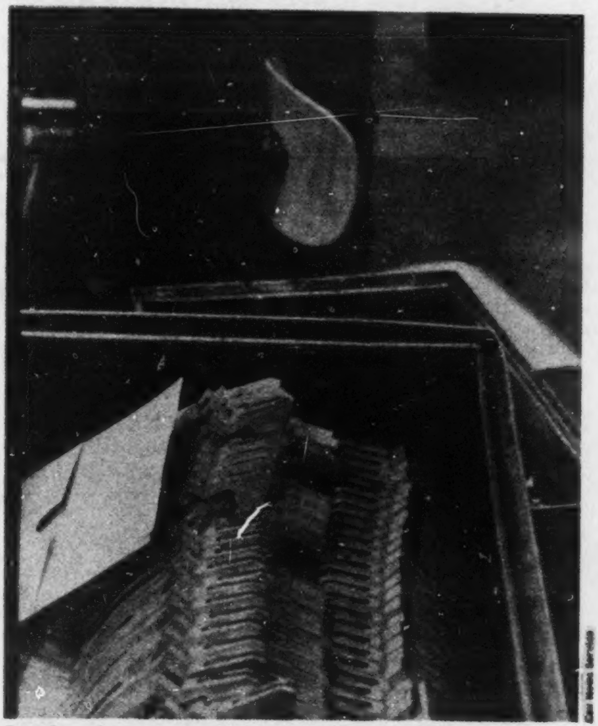
To emphasize his point, he gestured to a glass display case in his office containing higher-quality pistols that Roehm also makes. They were moderately expensive handguns, such as .357 and .44 Magnums, priced out of the reach of the average street hoodlum in the United States.

Roehm would not say directly how he felt about one of the guns made by Roehm and RG allegedly being used to shoot President Reagan, but export manager Mack responded.

"Yes, we heard about it. Sorry for it," Mack said.

He elaborated, "This man could have attacked the President with a bomb or a knife or anything.... Somebody can make crimes with anything. Of course, it's easier to use a gun for crime."

Mack said he assumes that "Most of the guns we make are just used for protection," but added, "It can be that also some guns are also used for crime."



Gun housings, not yet blued, lie in packing case at Sontheim Roehm plant

Assassins have always favored small, snub-nosed guns

Cox News Service

WASHINGTON — Down through American history, the weapons used by 10 of 15 assassins and would-be assassins of political figures have been among the most readily concealable variety of pistols then available.

Here, compiled from records at a half-dozen archives, are the 10 instances when small pistols were used:

✓ President Andrew Jackson was in the rotunda of the U.S. Capitol when an assailant, Richard Lawrence, fired two shots and missed on Jan. 30, 1835. Lawrence fired two pocket-sized percussion pistols, which he withdrew from his inside coat pocket.

✓ President Abraham Lincoln was murdered in Ford's Theater in Washington on April 14, 1865. The assailant, John Wilkes Booth, fired a .44-cal. cap-and-ball Derringer measuring 5⁷⁄₁₆ inches long.

✓ President William McKinley was assassinated on Sept. 6, 1901, as he was about to shake hands with Leon Czologosz in Buffalo, N.Y. Czologosz shot him with a short-barreled .32-cal. Iver Johnson revolver.

✓ President-elect Franklin D. Roosevelt escaped assassination on Feb. 15, 1933, while riding in an open car in Miami. The assailant, Giuseppe Zangara, fired a .32-cal. revolver. The gun, made by the U.S. Revolver Co. had a 5-inch barrel.

✓ Sen. Huey Long (D-La.) was assassinated in the rotunda of the Lousiana State Capitol on Sept. 8, 1935. The murderer, Carl Austin Weiss, used a small .32-cal. Browning automatic pistol.

✓ Sen. Robert F. Kennedy was fatally wounded in a Los Angeles hotel on June 5, 1968, the night of the 1968 California primary. Sirhan Sirhan, the assailant, fired a snub-nosed .22-cal. Iver Johnson revolver with a 2.5-inch barrel.

✓ Gov. George Wallace of Alabama was wounded while campaigning at a Laurel, Md., shopping center on May 15, 1972. His attacker, Arthur Bremer, fired a snub-nosed Charter Arms .38-cal. Undercover revolver with a 2-inch barrel.

✓ President Gerald Ford escaped injury on Sept. 22, 1975, when Sara Jane Moore fired a shot as Ford was leaving a San Francisco hotel. Her gun was a .32-cal. Smith & Wesson Chiefs Special with a 2-inch barrel.

✓ San Francisco Mayor George Moscone was murdered in his office on Nov. 27, 1978. The assailant, former city supervisor Dan White, fired a .32-cal. Smith & Wesson Chiefs Special with a 2-inch barrel.

✓ President Ronald Reagan survived an attempted assassin's bullet outside a Washington hotel on March 30, 1981. The gun the FBI said was taken from the accused attacker, John W. Hinckley Jr., was a .22-cal. RG 14 revolver with a 2-inch barrel assembled from German-made parts by the Miami-based RG Industries Inc.

Following are five other cases involving other types of assassination weapons:

✓ President James Garfield was shot in the back at a train station in Washington on July 2, 1881, and died the following September. The assassin, Charles J. Guiteau, fired a .44-cal. British Bulldog, a heavy-framed revolver of unknown barrel length.

✓ Former President Theodore Roosevelt was shot and seriously wounded while campaigning for the presidency in Milwaukee on Oct. 14, 1912. The assailant, John Schrank, fired a heavy-framed .38-cal. Colt revolver that was built on a .44-cal. frame. The barrel length is unknown and the gun has been lost.

✓ President Harry Truman escaped death on Nov. 1, 1950, when two Puerto Rican nationalists, Griselio Torresola and Oscar Collazo, shot their way into the Blair House in Washington, where Truman was living while the White House was being renovated. The guns taken from the attackers were a German Luger pistol and a Walter P-38 pistol, both full-sized handguns.

✓ President John F. Kennedy was assassinated while riding in a motorcade in Dallas on Nov. 22, 1963. The attacker, Lee Harvey Oswald, fired a mail-order Mannlicher-Carcano rifle from the window of the Texas School Book Depository.

✓ President Gerald Ford escaped assassination on Sept. 5, 1975, in Sacramento when Lynette (Squeaky) Fromme aimed a pistol at him as Ford reached out to shake her hand. The gun was a full-sized Colt 1911 Army model .45-cal. automatic pistol, which she had secreted under her flowing dress.

— Joseph Albright

Leading sources of handguns 1979

[illegible]

[illegible]

	Source & location (see key)	Handguns sold — U.S.	Market share	Per cent of handgun crimes
1	Smith & Wesson Springfield, Mass. [illegible]	[illegible]	21%	21%
2	[illegible]	[illegible]	[illegible]	[illegible]
3	RG Industries Miami [illegible]	204,517	9%	14%
4	[illegible]	[illegible]	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	10%
6	[illegible]	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	4%	1%
8	[illegible]	[illegible]	[illegible]	[illegible]
9	[illegible]	61,000	3%	0.2%
10	[illegible]	[illegible]	[illegible]	[illegible]

There's plenty of profit potential in a $39.95 gun

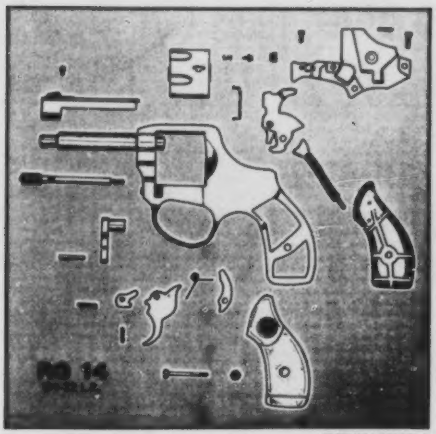


Diagram shows the parts that make up the .22 caliber RG 14 handgun

JOSEPH ALBRIGHT
Cox News Service

There was a good deal of profit in the $39.95 gun that has been identified by federal officials as the one used to shoot President Ronald Reagan.

By piecing together information from U.S. Customs documents, wholesale gun catalogs and the files of a 1972 lawsuit, it is possible to make this unofficial estimate:

✔ RG Industries Inc., the plant at 2485 NW 20th St., Miami, that assembled the RG 14 .22 caliber revolver allegedly used in the assassination attempt, earned a gross profit (before corporate income taxes) of about $6 per gun.

✔ Scott Wholesale of Indian Trail, N.C., which bought the gun from RG Industries on July 27, 1979, added a markup of about $9 when it resold it to a retail dealer, Rocky's Pawn Shop in Dallas.

✔ Rocky's Pawn Shop added another markup of about $12 when it sold the gun to accused assailant John W. Hinckley Jr. The pawn shop bought the gun from the wholesaler on Oct. 11, 1979, and sold it to Hinckley on Oct. 13, 1980.

✔ The federal government collected Customs duties and excise taxes of about $2.50 on the gun. On top of that, the government stood to collect an undetermined amount — perhaps as much as $10 — from income taxes on the gross profits of gun assembler, wholesaler and dealer.

Only one component in a RG 14 revolver is American-made. That is an arc-shaped frame that fits inside the plastic handle grips and connects the barrel, trigger and cylinder.

RG Industries bought the frame from Southern Die Casting, 3500 NW 59th St., Miami. It was made by pouring a molten alloy called Zamak No. 5, which is 95 per cent zinc, into a form. Once cooled and transported to RG Industries, the frame was painted by an assembly worker to look like blued steel.

Nine years ago, one of the metal frames cost RG Industries 43 cents. With inflation, the price has gone up to about $1.

The 31 other parts, which were made of steel, arrived in a set from West Germany aboard a ship. The sets — packed 1,000 per crate — were shipped to Miami by Roehm GmbH, a tool and gun factory in Sontheim, West Germany, whose West German owners are also the sole stockholders in RG Industries.

A parts set for this model gun had a value of $7.15 in 1980, RG Industries' Customs documents obtained through the Freedom of Information Act show. That figure includes customs duty and, presumably, a profit for Roehm GmbH.

The labor cost of assembling one RG 14 in Miami can be roughly estimated at $3 to $4 per gun, including overhead.

When RG Industries sells a small lot of, for example, 25 RG 14s to a retail sporting goods store, it charges $23.27 a gun — meaning its profit is about $11 per gun. But when it sells larger lots to a wholesale jobber such as Scott Wholesale, its price is reportedly about $18, hence the $6 profit for RG Industries.

About 90 people work at RG Industries, some on machine tools and some on guns, commercial sources report. Most are said to earn little more than the $3.60-an-hour minimum wage. The company's gross sales are reported to be $12 million a year.

In 1979, the plant assembled 175,000 pistols and revolvers, according to commercial sources. In the first quarter of 1980, production was up to a rate of 220,000 a year.

The Snub-Nosed Killers
Handguns In America

These Light-Frame Handguns, Products Of Smith & Wesson (right) And Charter Arms, Are About Three Times As Crime-Prone As Heavier Pistols

Two short guns vie for pocket space

Chiefs Special and Undercover: Weapons coveted by Discriminating Thugs

This is the second in a six-part series.

By Joseph Albright
Washington Bureau

SPRINGFIELD, Mass. — Few outside the gun business have heard about the arms race between the Chiefs Special, a palm-sized .38 revolver made by the long-established Smith & Wesson Co., and a look-alike weapon called the Undercover, made by the up-and-coming Charter Arms Corp.

Yet the collateral damage includes:

- Alabama Gov. George Wallace, shot and paralyzed with an Undercover in 1972.
- President Gerald Ford, nearly assassinated by a Chiefs Special in 1975. (Sara Jane Moore pulled the trigger but missed.)
- San Francisco Mayor George Moscone, murdered with a Chiefs Special in 1978.
- Ex-Beatle John Lennon, shot and killed with an Undercover in 1980.
- Washington cardiologist Dr. Michael Halberstam, murdered with a Chiefs Special in 1980.

Some Chiefs Specials and Undercovers were originally sold to civilians in gun shops with no more paperwork than any other handgun.

But most, say the presidents of both companies, were sold either to police departments for detectives, or to individual uniformed officers who wanted the tiny, hard-hitting guns as "backups" for their service revolvers.

As it turned out, the qualities that appealed to law-abiders have also turned the Chiefs Special and the Undercover into Cadillacs of crime guns, coveted by discriminating thugs who would prefer not to use poorly made, small-caliber "Saturday Night Specials."

In 1979, 5.9 percent of all handguns recovered in violent crimes in Atlanta, Miami and 16 other cities were Smith & Wesson Chiefs Specials, according to a computer analysis of federal gun-tracing records by Cox Newspapers. Carrying the numbers one step further, there is reason to believe the Chiefs Special in civilian hands is about three times as crime-prone as a typical handgun.

Here is the chain of statistical evidence suggesting that the Chiefs Special has a higher-than-normal crime rate:

Add up the serial numbers that the company has assigned to light-frame guns, nearly all of which have been Chiefs Specials: roughly 1.5 million since 1950, no more than one-third of which are still in police hands. Divide the remaining 1 million in civilian hands by the total U.S. stockpile of about 50 million civilian-owned handguns. Result: Only about 2 percent of all civilian-owned handguns are Chiefs Specials, but they are involved in 5.9 percent of violent crimes.

Applying the same technique, the Charter Arms Undercover is also about three times as crime-prone as a typical handgun. There are about 600,000 Undercovers in circulation. With one-third in police hands, those in civilian hands make up only 0.8 percent of the total civilian handgun stockpile. Yet 2.7

percent of handguns recovered in violent crimes were Undercovers.

Smith & Wesson president James L. Oberg was asked why the company sells small handguns, in light of studies by the federal Bureau of Alcohol, Tobacco and Firearms showing the prevalence of short-barreled guns as crime instruments.

Oberg replied: "I sell the guns that the market is demanding. We don't have any category for people who are going to keep a weapon in their drawer, but we know they do."

Some of his friends have told him they are reluctant to keep full-sized handguns in their homes, Oberg explained.

When asked how Smith & Wesson determines its "product mix" of standard and short-barreled handguns, Oberg said: "I would have to say that we are focusing on dollars more than anything else. Most of our motivation of what we do here is to supply dollars to our stockholders. For us, a great deal of the motivation is to run a profitable company."

After the interview, Oberg mailed a revised version of that statement: "Our purpose is to satisfy the needs of our customers with products which emphasize quality, safety and service. Our mix also has to consider producing an adequate return for our shareholders."

Guenter W. Bachmann, a Smith & Wesson vice president, said the company has no way of knowing whether small handguns such as its Chiefs Special are more likely to be used in crimes than larger handguns.

"Let's face it, they are all concealable," he said.

At the Charter Arms plant in Stratford, Conn., company president David Ecker said he feels "pretty sick" whenever he hears that a Charter Arms Undercover has been found at a crime scene.

"I know I felt a great sigh of relief on hearing that our product wasn't used (in the attempted assassination of President Reagan)," said Ecker. "I do not like to see any of our products used in that way."

One of the roots of the rivalry over the high-class, short-barreled gun market was a decision by New York City police in the late 1940s to arm women officers with an experimental light-framed revolver.

Since then, the rivalry has been fed by two unrelated factors. One was that the basic patents for small handguns expired in the 19th century, leaving a small arms manufacturer virtually no protection against plagiarism in gun designs. The other was the rioting that spread from Watts to Harlem to Detroit in the mid-1960s, generating a huge market for "self-defense" handguns.

In January 1949, a story in the Springfield, Mass., Union recorded a decision by Smith & Wesson, the city's second-largest employer, to begin production of a new "so-called light-frame revolver" for policewomen in New York.

"The New York police girls carry these guns in shoulder holsters which outwardly appear to be shoulder bags," the newspaper reported. "The light-frame weapon is widely popular among sporting clubs and shooting ranges."

The new version weighed only 19 ounces. Its butt was as skinny as an umbrella handle. The cylinder was drilled for only five .38 cartridges since it wasn't big enough around for six holes. With its 2-inch barrel, the gun was only 6.5 inches long. It fired with a kick that left the wrist tingling.

The Colt Firearms Division had been selling policemen a similar-looking, slightly heavier .38 snub-nosed revolver called the Detective Special since 1927. For the civilian sector, Colt sold limited numbers of a comparable snub-nosed gun it called the Bankers Special.

> ***"I would have to say that we are focusing on dollars more than anything else —James Oberg, Smith & Wesson"***

And Smith & Wesson was already marketing a rival called the Terrier. A 1952 company catalog said, "This little gun is to be found in a great many homes where it represents a unit of protection for the citizen and his family." It looked like the gun developed for the New York policewomen, but it wasn't as sturdy.

The Smith & Wesson sales force broadened the horizons of the policewomen's revolver by introducing it at a 1950 conference of the International Association of Chiefs of Police in Colorado Springs. As part of the promotion, police delegates were asked to vote on a name for the gun.

"When the votes were counted, the most commonly suggested and appropriate name was the .38 Chiefs Special," Smith & Wesson historian Roy Jinks has written. "The name was officially adopted."

The Chiefs Special was a small sideline for Smith & Wesson, the nation's leading pistol manufacturer. Little effort was made to push snub-nosed gun sales to civilians. At the same time, Colt was content to sell its Detective Special largely to policemen.

There was an unfulfilled demand, and by 1963 Douglas McClennahan realized it. McClennahan, a young draftsman who had worked at Colt Industries and three other Connecticut gun factories, set out to design a competing snub-nosed gun. In late 1964 he displayed his first prototype to a few gun columnists at a National Rifle Association convention in Los Angeles.

It was to become the basis of Charter Arms, a new company 75 miles down the Connecticut River valley from Smith & Wesson. Initially, its only product was a snub-nosed .38 revolver weighing three ounces less than the Chiefs Special. At $55, it was $17 cheaper than any snub-nosed gun in the Smith & Wesson arsenal.

In a press release to gun writers, Charter Arms explained that the purpose of the 'Undercover' was to satisfy a need on the part of "all law enforcement officers and homeowners."

"The new (Undercover) was well received," a writer for Guns & Ammo magazine recalled later. "Even fussy handgunners were soon admiring and buying the all-steel compact."

Charter Arms picked a fortuitous time to enter into the gun market. As Ecker, the company president, recalled: "You had a terrific civil rights problem, with riots all across the country. There was a terrific boom in firearms sales. So any firearm that was being manufactured or imported was being sold."

William B. Gunn, then Smith & Wesson's president, decided he could not ignore the new Undercover.

A clipping from Gunsport Magazine, found in the military history collection of the Smithsonian Institution, describes how the country's No. 1 handgun manufacturer reacted:

"Back at the Springfield ranch, the S & W ramrods took a dim view of the business they were losing and decided to sew up the commercial market again by hustling through another production run of 18,000 new Chiefs Specials. Another source said it was three runs of 12,000 each . . . ."

The Gunsport writer, Jan Stevenson, quoted a Smith & Wesson official as saying: "It's true, we are making Chiefs Specials again, and we're putting them on the market as fast as we can."

Today, Smith & Wesson declines to give out production figures for its snub-nosed guns. But from a look at the pattern of serial numbers assigned to Smith & Wesson light-frame guns, it is obvious that the company boosted its production of Chiefs Specials in the years after the Undercover came to market.

A chart of serial numbers published in Jinks' "History of Smith & Wesson," a glossy volume for gun fanciers, indicates that the factory assigned an average of 39,000 serial numbers a year to light-frame revolvers, principally the Chiefs Special, in the 1950s and 1960s.

Lennon

In a 12-month period ending in 1970, the company used 100,000 light-frame serial numbers. After that, light-frame serial numbers were assigned at the rate of at least 75,000 a year.

Enter the magnum

Another escalation in the snub-nosed arms race occurred in March 1968 when Smith & Wesson introduced an even more awesome weapon: the world's smallest .357 magnum revolver.

Smith & Wesson had been selling heavy, long-barreled .357 magnums since 1935, when it managed the publicity coup of presenting the first model to FBI Director J. Edgar Hoover. A newspaper clipping of the time proclaimed that film stars Gary Cooper, Clark Gable and Franchot Tone were also among the owners of "the Big Bertha of the handgun field."

A .357 magnum cartridge is one-eighth inch longer than a standard .38 special bullet, although they are virtually the same diameter.

The magnum contains enough extra gunpowder to exert 40,000 foot-pounds of pressure on the bullet, instead of 17,000 foot-pounds for a normal policeman's bullet. That means a .357 magnum can blast through a wall and still kill someone.

Smith & Wesson began efforts to shrink the frame of .357 magnum guns in 1954, at the suggestion of Bill Jordan, then a marksman with the U.S. Border Patrol.

"Until this date . . . no company had ever attempted to perfect a small frame for this cartridge," wrote company historian Jinks.

The result was the Smith & Wesson Combat Magnum, a medium-framed revolver with a standard 4-inch barrel. Jordan, appearing on the 1955 television show "You Asked For It," held up the gun and called it "the answer to a peace officer's dream."

After what Jinks has described as "considerable encouragement from plainclothes law enforcement personnel," the company designed an even smaller .357 magnum during the 1960s. When it was offered to the public in the 1968 catalog, this 31-ounce miniature cannon was fitted with a 2.5-inch barrel, a rounded butt for easy concealment, and quick-draw sights.

Wallace

Ford

The competition responds

Back at Charter Arms, McClennahan and Ecker devised what amounted to a counter-escalation — the Charter Arms .44 Special Bulldog. It was 11 ounces lighter than the miniature Smith & Wesson Combat Magnum, although the dimensions were about the same. It fired a bigger bullet, but one not fast enough to be classified as a magnum.

In a glowing review for the magazine Guns & Ammo, pistol connoisseur Clair Rees said the Charter Arms Bulldog .44 "threw 60 per cent more lead" than ordinary .38 caliber handguns.

"The new gun," Rees wrote, "appealed instantly to many pistoleers who had a need for a relatively small, easily concealed revolver but who lacked faith in the performance of .38 special loads for serious social use."

A Cox Newspapers computer analysis of gun records found that only about 0.2 per cent of guns recovered in 1979 street crimes were Charter Arms Bulldogs — and only 0.8 per cent were S & W Combat Magnums.

One who will be remembered for his "serious social use" of a Charter Arms Bulldog is David Berkowitz, now serving a 315-year sentence as New York's "Son of Sam" killer.

2 Top U.S. snub-nosed gun makers

Smith & Wesson

OWNER: Since 1965, it has been a subsidiary of Bangor-Punta, a holding company formed in 1964 through the merger of the Maine-based Bangor & Aroostook Railroad and the Punta Allegre Sugar Corp., once an owner of sugar plantations in Cuba. Bangor Punta also makes Piper airplanes, powerboats and cement. The largest Bangor Punta shareholders are James E. Stewart, a Minneapolis businessman who owns 21 percent of the common stock, and Count Ferdinant Graf von Galen, a West German private banker who owns 13 percent.

FINANCES: In 1980, Smith & Wesson sales rose to $124 million, of which $93 million was from the sale of handguns of all sizes. Smith & Wesson's pre-tax profit margin was 17.9 percent — the highest of any Bangor-Punta division.

MANAGEMENT: The Smith & Wesson president is James L. Oberg, 63, a tall, silver-haired metalurgist who last year earned $147,600. He is a graduate of Lehigh University and a senior vice president of Bangor Punta.

PRODUCTION: 617,425 handguns in 1979, of which 159,218 were exported and the rest were sold on the U.S. market. Of those produced for U.S. and foreign markets, 224,994 were .38 Specials, including standard police revolvers and Chiefs Specials. Another 220,129 were .357 magnums. Other products include ammunition, chemical Mace, knives and night vision devices. The company has 2,500 employees in a Springfield, Mass., factory designed in 1948 with 8-foot-thick foundations to absorb the shock of bombs or earthquakes. Below the plant are subterranean chambers in which workers could continue pistol making even after an attack.

VIEWS: It is the only leading company in the handgun industry on record as favoring any gun-control laws. David Wallace, board chairman of Bangor-Punta, reiterated to stockholders in May: "Some means of keeping guns out of the hands of the mentally unbalanced, the alcohol or drug affected, or criminally disposed people must be found. We continue to believe that a federal gun-owners licensing law, together with mandatory sentencing of people who use firearms committing a crime, would give the best answer."

Smith & Wesson president James Oberg

Charter Arms

OWNER: David Ecker, 48, one of the original investors, became the majority owner three years ago when he bought out the designer of the Undercover revolver, Douglas McClennahan. Ecker, who collects guns as a hobby, says he has been interested in guns since he made zip-guns out of car aerials when he was a teen-ager in New York City. He served in the Air Force and attended the University of Wyoming on the GI Bill. Before joining Charter Arms full-time in 1967, he was a postage meter salesman for Pitney-Bowes. On his office wall is an autographed photograph of President Ronald Reagan, to whom he had made a campaign contribution. Another photo shows Ecker and his pregnant wife at a nightclub, flanked by four bare-breasted cocktail waitresses.

Charter Arms president David Ecker

FINANCES: Ecker says the company goal is to earn 15 percent profit after taxes, "but we don't always make that." As a privately held company, it has not published sales or profit figures.

MANAGEMENT: Ecker is president. A corporate biography says Ecker's forte has been "organizing Charter's marketing strategy and building the product line." The vice president for manufacturing is Bob Mailoux, formerly a tool designer for Winchester, Avco and other firms.

PRODUCTION: 67,259 handguns in 1979, of which 53,540 were .38 Undercovers and 3,860 were .44 Bulldogs. About 200 metal workers, parts assemblers, inspectors and others turn out the guns at a one-story warehouse and factory in Stratford, Conn. Ecker says he is hoping to move the company to a Southern state with "a better business climate" next year.

VIEWS: Ecker takes a dim view of most gun control legislation, although he would support harsh justice for those using guns in crimes. "As far as I am concerned, you have a kangaroo court and the next day you put him away," he said. He believes people in certain cultures have a "propensity to kill" with whatever weapon is available.

Saul Eig sold Americans the gun-toters Model T

The Snub-Nosed Killers
Handguns In America

Third in a six-part series

By Joseph Albright
and Henry Eason
Washington Bureau

MIAMI — About 2.5 million of the smallest, least expensive and most crime-prone guns in American can be traced to the ingenuity of a former gun importer named Saul Eig, who is now in retirement, savoring his art collection in a $350,000 home here.

Understanding the snub-nosed gun phenomenon in America requires understanding Eig, the Henry Ford of the $14.95 revolver.

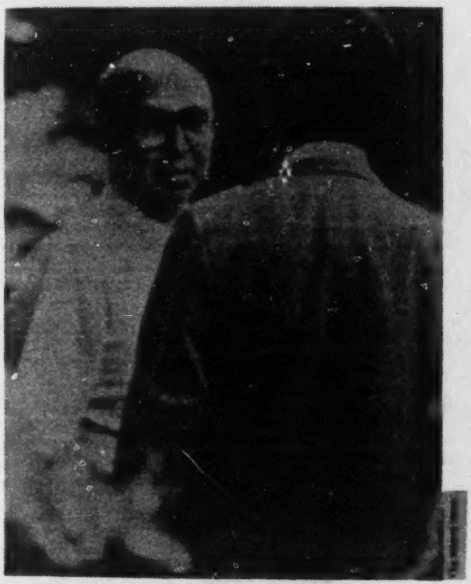
There were "snubbies" on the market before Eig. But he has done as much as anyone else to make small handguns available to the masses. Always working within the law, he has imported about 1.5 million guns on his own and then helped create another enterprise that has assembled 1.1 million more guns from imported components, most of them after he left it.

Wrapped up in his former career are questions: Where did low-priced handguns come from? How were they marketed? What is the background of RG Industries Inc., the Miami gun plant that assembled the revolver used in the shooting of Ronald Reagan?

Eig, in his 50s, cut his last gun deal seven years ago, then retired. Consider the marks Eig notched on American gun commerce:

- From 1956 to 1968, one out of every 10 handguns sold in the United States was imported and distributed by corporations carrying Eig's name. Like a latter-day Sam Colt, he imprinted the name "EIG" on the handles of thousands of these. Others carried German or Italian factory brand names. Before 1968, Eig ranked among the two or three leading gun importers in the country.

- In 1968, Congress passed a law aimed at banning imports of cheap small handguns. The bill drafters did not reckon with Eig's ability to exploit a loophole. He and three West Germans created a company in Miami to import sets of handgun parts and attach them to 43-cent American-made frames to make revolvers that could not be imported.



Saul Eig talks to reporter Joseph Albright

This .22 caliber revolver bearing Eig's name was imported to the U.S. by Eig before 1968

It was the first plant in the country devoted solely to assembling foreign-made gun parts. The plant, RG Industries Inc., is now the third-ranking U.S. handgun supplier in the country.

Recalls Guenther Roehm, one of its founders: "Eig came to us and said: 'Now I have some problems, I can't import any more. So you have to assemble these (guns) in Miami near me.' "

• From 1968 to 1974, Eig worked as an officer of or consultant to three other Miami companies formed to assemble handguns out of imported gun parts. Even as a consultant, he was a go-getter. In 1972 he wrote a gun factory in Italy, pleading that it is "of utmost importance" that the factory produce "large quantities" of a new model revolver "in order to avoid losing orders."

Eig has never been one to trumpet his commercial achievements. Since he began importing guns in 1956, his name could be found in only one newspaper article. That was 12 years ago. In it he told his interviewer, "We don't want publicity."

He has not become more talkative lately. A Cox Newspapers reporter visited Eig's home in the posh Miami enclave of Coconut Grove in a vain bid to gain an interview. On a second visit, a reporter succeeded in talking briefly with Eig outside his home.

"I've been out of that business for over 10 years, and I have nothing to say about it . . . We sold the business in 1970, and I haven't had anything to do with it since," Eig said.

Still, Eig's role in the postwar gun business can be traced in some detail through 15,000 pages of handwritten gun sales ledgers maintained by Eig bookkeepers from 1956 through 1971. The documents were obtained by Cox Newspapers through a Freedom of Information Act filing with the Treasury Department. The department's Bureau of Alcohol, Tobacco and Firearms took custody of Eig's 65 looseleaf binders full of records when he went out of the gun business.

"We use the Eig records almost every day," said a bureau agent, explaining they are consulted whenever a police department seeks to trace the serial number of a gun of the type Eig imported.

Other insights into the postwar cheap-gun boom came from Guenther Roehm, a principal of a West German tool and gun company that once was Eig's main gun supplier. Roehm is now also vice president and a one-third stockholder in RG Industries in Miami.

Roehm, 56, said during an interview in West Germany that he and his family began manufacturing blank-firing starter pistols and revolvers at a factory in Sontheim in 1951.

The blank guns were a small sideline to the family's four-decade-old machine tool business, Roehm GmbH, which specialized in making steel chucks for clamping drill bits.

(The Roehm GmbH company described throughout this story has no connection with a larger and better-known German company, also called Roehm GmbH, which manufactures plastics and pharmaceutical supplies.)

In the mid-1950s, some U.S. soldiers in Germany purchased Roehm starter pistols and brought them back to the United States. As a result, in 1955 or 1956, a U.S. merchant appeared at the factory to examine the Roehm line of starter guns.

"He said, 'Hah, you could manufacture a (live ammunition) revolver for me,'" recalled Roehm. "We said, 'We have never done that before — what is your opinion of how to do that?' He said, 'OK, you would take this part and that part, just take the parts you use to make a starter gun and make a (live ammunition) revolver with it.' "

Another Roehm executive, export manager Karl Mack, identified the U.S. merchant as a representative of the Thalson Importing Co. of San Francisco. In Washington, a federal official responsible for Treasury gun records said Thalson Importing was a small-scale gun importing firm that went out of business more than 15 years ago.

Eig arrived at the Roehm GmbH factory shortly after the Thalson representative.

"He started with small quantities (of guns) at first and then later on he ordered always more. He would come over twice a year and ask us was business good. And we said 'Yes.' We had no contact with anybody else in the states," Roehm said.

Eig, who up to then had been a dealer in knives and scissors, distributed guns under the name Eig Cutlery Inc. Records show he made his first gun sale in April 1956.

Among the earliest customers of Eig Cutlery and its affiliate, The Eig Corp., were Vick's Swap of Tampa, Fla., Liberal Loan of San Antonio, Texas, Star Brokers of Albany, Ga., Uncle Jake's Pawn of Dallas, Roberts Sporting of Atlanta and National Gun Traders of Miami.

It was a fairly typical slice of the Eig clientele for the next dozen years: pawn shops, hardware stores, big city gun shops, gun wholesalers.

“Eig came to us and said . . . I can't import any more. So you have to assemble these (guns) in Miami near me.” —Gunther Roehm, Roehm Gmbh

The 12-ounce winner

Eig's first and biggest selling gun was called a Roehm 10 revolver. One weighed just 12 ounces — less than a third the heft of an old-time Colt six-shooter. The plastic handle was about as big around as the top of a soft drink bottle and its barrel measured only 2.5 inches long. Roehm 10s usually retailed for $14.95.

The Roehm 10 was not famous for its reliability. In a 1971 test for the Treasury, officials of the H.P. White Laboratory in Bel Air, Md., found that a Roehm 10 misfired 371 times in 2,100 pulls of the trigger.

Another stage of the test was to drop each revolver to the ground five times from waist level, making sure it landed upside down on its hammer. The object was to measure whether a revolver had a reliable safety mechanism to prevent the hammer from striking the firing pin and firing a bullet by accident.

The Roehm 10 fired the first time it was dropped. Along with some more expensive gun models made by other manufacturers, the Roehm 10 was recorded as failing the "hammer-drop test."

A sampling of Eig's gun records indicates that the two corporations bearing his name imported between 1.4 and 1.6 million handguns between 1956 and 1971. About one-third of these were made by Roehm GmbH, which also sold its handguns to other large-volume importers in New York and California.

The coming of the 1968 gun control act spelled curtains for some gun importers. But not for Eig.

On Oct. 1, 1968 — 22 days before the law against importing handguns became effective — Eig and his chief

West German gun suppliers joined to incorporate RG Industries Inc., for the purpose of "carrying on the trade and business of manufacturer of tools and firearms," Florida incorporation papers filed in Tallahassee show.

The stock was divided equally among three West Germans, who 13 years later are still reported by commercial sources to be the sole owners of RG Industries. They are Guenther Roehm, his brother Heinrich Roehm, now 71, and Heinrich's nephew, Heinrich Peter Roehm, now 43.

Eig, who was listed as a director, helped set up a plant for RG Industries around the corner from his own wholesale gun warehouse in Miami. The site of the RG Industries assembly plant in Miami was purchased from the Pentacostal Holiness Church of Coconut Grove for $45,000 in 1968.

Early in 1970, Eig told the Roehms he had lost interest in the gun business.

"He said, 'I'm not interested any more in business. I've worked enough, I am going to stop it,' " recalled Guenther Roehm.

At the same time, Eig notified his main Italian gun distributor, Giuseppe Tanfoglio, that he was dropping his exclusive franchise to distribute Tanfoglio Titans, a .25-caliber palm pistol, throughout the United States.

Bereft of Eig's participation, the Roehm family resolved to hire other local managers to keep RG Industries rolling.

And they did. RG Industries assembled 1.1 million small pistols and revolvers between 1971 and 1979, an average of 122,000 a year, company records filed with the Treasury show. Most were RG 14s, the gun used in the shooting of Reagan.

RG Industries also imports about 30,000 or so already assembled revolvers from Roehm. The U.S. government allows this because they are larger guns with long enough barrels to be classified as sporting weapons.

Since 1978, RG Industries has been operated day-to-day by William Kirk, who worked as controller of a refinishing company and president of a tire tread company before entering the gun business. Kirk, 36, has a master's degree in business from the University of Illinois.

Kirk has steadfastly declined to answer any questions about the company. When reporters appeared at the front gate of the RG Industries plant following the Reagan assassination attempt, Kirk locked the gate and sent workers out through a rear exit.

> ***"RG Industries assembled 1.1 million small pistols and revolvers between 1971 and 1979 . . . Most were RG 14s, the gun used in the shooting of Reagan."***

Only once has an outsider penetrated the two-story, windowless, beige stucco warehouse where the guns are assembled. And that was through trickery.

In 1976, Steven Brill, a free-lance writer, showed up at the factory claiming to be the owner of a large sporting goods store near New York City. Brill reported in a *Harpers'* article how chief salesman Bruce Savane gave him a sales talk on the merits of the RG 14, calling it "a popular nightstand model."

"If your store is anywhere near a ghetto area, these ought to sell real well," Savane was quoted as saying in Brill's account. "This is most assuredly a ghetto gun."

Brill also described a tour through a high-ceilinged gray room in which four men and two women sat at separate tables, "each adding a different part to a gun frame and passing it down to the next person."

Savane, who no longer works at RG Industries, said recently: "If the operation is the same as it was the years I was there, they are totally within the law — totally within the law."

As for his encounter with Brill, Savane said: "That was probably, to me, the worst example of yellow journalism I've ever seen in my whole life . . . Just about everything I said was totally twisted. In fact some of the things I think were just embellished on to the point where they were not even true."

New frames for old

Even after Eig sold out in 1970, he kept his hands in the gun business.

His friend, Al Bernkrant, president of Firearms Import and Export Corp., to whom Eig had sold his remaining gun inventory, signed Eig up as a $24,000-a-year consultant. It was in this role that Eig wrote Tanfoglio in April 1972 to press for "large quantities" of a new .22-caliber revolver called the T18.

Eig's letter, disclosed in a 1975 court battle between two Miami gun assembly plants, revealed how Eig handled a problem that had arisen in Bernkrant's Miami assembly plant.

Eig explained to Tanfoglio that the cylinders of the T18s had a tendency to fall out of the frames of the revolver. To fix this, Eig went on, Firearms Import and Export was ordering 5,000 new frames from a U.S. supplier.

"As soon as these frames are received, we will stop working on the old bad frames and will start working on the new frames altogether with your new (parts) groups," Eig wrote.

"We will leave the remaining 2,500 of the old frames for completion at a later time when we need work for our operators. Right now, it is of the utmost importance that we start to produce T18 revolvers in large quantities in order to avoid losing orders."

In late 1974, Eig branched out in still another direction, incorporating a company called Excam Inc., and offering himself as a foreign trade consultant to the Tanfoglio family. But after checking around, he decided the plan "was not practicable," mainly because of troubles obtaining product liability insurance, as his lawyer would later explain in court papers.

After that, Eig retired for good.

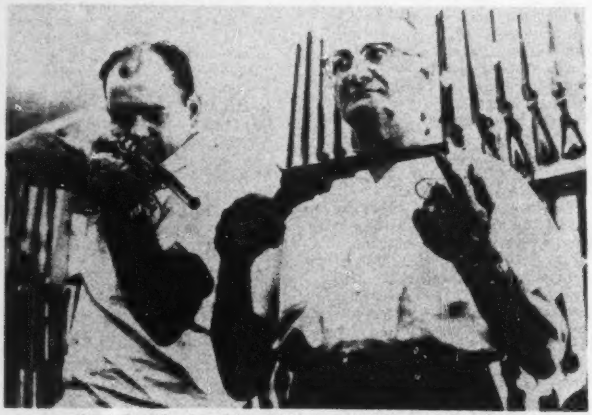
Another Miami gun distributor, Sidney G. Davies, who still sees Eig from time to time, said, "He collects good art, and I suspect he is a major contributor to arts' organizations."

From live-bait salesman to firearms titan

The Snub-Nosed Killers
Handguns In America

Fourth of a series

By Joseph Albright
Washington Bureau



Gun dealer Al Bernkrant (left) and his father Jack Bernkrant in a 1962 photo

MIAMI — Twenty-six years ago, Al Bernkrant left behind his live bait and gun repair store in upstate New York and moved to Miami. With his wife, Bea, and his father, Jack, he opened a small downtown gun store called National Gun Traders.

The family no longer runs a gun shop. These days, Al Bernkrant is a trustee of Florida International University and a director of the Central Bank and Trust Co. in Miami. His wife and father have portfolios of Dade County real-estate investments.

The Bernkrants have built a mom-and-pop conglomerate that makes or imports two-thirds as many handguns as are manufactured by venerable Colt Industries. Last year, commercial sources report, the family company registered $50 million in total sales, with guns their most lucrative line.

Their high-volume, perfectly legal business stems in part from being one of two U.S. assemblers of the .25-caliber Titan, a small pistol made of Italian components that emerged as the fifth leading crime gun in America, according to a Cox Newspaper analysis of handguns involved in street crimes in 1979.

The Bernkrants are among the big winners in a ferocious, dimly understood struggle for a piece of the U.S. snub-nosed gun market. They also sell larger handguns, rifles, shotguns, ammunition, handcuffs, tear-gas dispensers, holsters and binoculars.

Aside from assembling and importing guns through a subsidiary called Firearms Import & Export Corp., the Bernkrants' company is also the largest wholesale distributor of rifles, shotguns and handguns in the Southeast. Last year, the company changed its name from Southern Gun Distributors Inc. to Southern General Diversified Inc. For diversification, it manufactures lawn furniture and retails children's clothing.

Papers on file at the Dade County Circuit Courthouse in a 1975 civil lawsuit show the company's activities during the last decade have included:

- Causing a foreign supplier to build a modern gun factory in the Italian hills solely to make small guns for the United States.
- Temporarily moving a gun assembly plant from Miami to Valdosta, Ga., to circumvent a 1972 Florida gun law.
- Suing a cousin and a friend for $10.5 million for allegedly stealing trade secrets.
- Sending a snub-nosed handgun to an Italian gun factory and arranging for the Italian company to design a similar model.

(Cox Newspapers interviewed Bernkrant in Miami and, at his request, consented to give him an opportunity to review his direct quotations before they would appear in print. However, when the publication date neared and Bernkrant was unable to meet with a reporter to review the story, the direct quotations were deleted and his remarks paraphrased.)

Bernkrant, 51, attributed his company's ascent to hard work as he guided a reporter into an office decorated with a dozen antique rifles, a two-foot bronze statue of the late John Wayne and a photograph of a semi-clad woman labeled "Saturday Night Special."

The walnut-veneered office is part of an $8 million warehouse near Opalocka Airport that houses the company's wholesale gun sales phone bank, its computerized records, its gun assembly plant and its foam furniture factory.

The company has succeeded as a specialty gun wholesaler, Bernkrant said, mainly because it is able to provide dealers more variety in guns and gun accessories than the old-line hardware wholesalers who dominated gun wholesaling a generation ago.

Then too, Bernkrant said, his company happened to come along at a time when the public was eager to buy weapons for self-protection because of declining trust in the ability of the police to prevent violent attacks.

He said people don't have a secure feeling in their homes, and when there is a problem in a community, such as a rape or robbery, people will buy guns.

The total U.S. firearms market, counting rifles and shotguns as well as handguns, has been gradually shrinking, in Bernkrant's view. His explanation: a steady increase in urbanization throughout the country, accompanied by a decline in good land for hunting.

He said he feels regret — but no remorse — when one of his guns is used in a crime. Crime was not the intent of the gun, he said, and likened his feelings to that of the McDonnell Douglas Co. when one of their jets crashes. Also, Bernkrant noted that often, guns prevent murders.

Guns and gun parts are imported from Europe not simply because they are cheaper than U.S.-made guns, according to Bernkrant. He said if he wanted to, he could easily make cheaper handguns using all-U.S. components.

But he said the company continues to rely on German or Italian gun suppliers mainly because their gun components come with certificates attesting that each one has been safely tested in a German or Italian government test-firing range.

These foreign government "proof-test" certificates can be valuable as evidence in any product liability suit that might be filed by a gun customer in this country, Bernkrant said.

Beyond that, Bernkrant would not discuss the history of his company's involvement in gun manufacturing, saying that his brother M.C. "Murph" Bernkrant was in charge of the Firearms Import & Export subsidiary. Bernkrant said Murph, who is a former dental supply salesman, was too busy to be interviewed.

A glimpse at empire

An unpublicized 1975 lawsuit involving the Bernkrants provides a rare glimpse inside the handgun assembly business. The case — a civil suit between Bernkrant's company and some rivals in the gun business — was settled out of court in 1976, but the records exist to paint a picture of cousin against cousin, friend against friend, in a battle for the small gun market as well as the ties between U.S. assemblers of concealable handguns and their foreign parts suppliers.

The court case centered around a .25-caliber palm pistol called the Titan, which is still being made and ranks among the leading crime guns in the United States. Firearms Import & Export was assembling the Titan from kits of parts that in 1972 cost the company $6.62 a set.

The parts were made and sent to Miami by Fabbrica D'Armi Tanfoglio Giuseppe, a small arms factory owned by Giuseppe Tanfoglio in the northern Italian mountain city of Brescia. In the early 1970s, Titans retailed in U.S. gun stores for less than $25.

About that time, Firearms Import & Export (or FIE as it is known in the gun business) was the chief — if not the only — U.S. distributor of Titans.

But in late 1974, Bernkrant heard that two men who had been on his company's payroll — one a cousin and one a friend — were about to cut into his exclusive distributorship by going into business distributing Titans.

In 1975, FIE filed a $10.5 million civil lawsuit in Miami charging the two men with misappropriating secret business information. Named as one of the defendants were Milton Koss, Al Bernkrant's cousin, who had been an employee of the company for four years.

The other defendant was Saul Eig, a one-time giant in the small handgun market, who in 1971 was brought aboard FIE as a consultant by his friend Bernkrant after Eig shut down his own Miami gun assembling business and sold the inventory to Bernkrant.

Bernkrant charged that Eig and Koss had conspired to relieve him of an exclusive distributorship of Tanfoglio guns. The dispute began in September 1974 when Eig asked to be released from his employment agreement, in which he promised not to work for a competing gun company, and Bernkrant agreed.

> ***"(T)he records paint a picture of cousin against cousin, friend against friend, in a battle for the small gun market . . ."***

Bernkrant contended in his suit that before the employment agreement ended, Eig had formed a company called Excam Inc., "for the express purpose of entering a competing business."

With "confidential knowledge of (FIE's) costs and price lists," Eig and Koss were able to sell Tanfoglio handguns at lower prices than those of FIE "for the sole purpose of injuring and destroying (FIE's) business," Bernkrant said.

In his answering documents, Eig denied violating his employment agreement with Bernkrant and said it had been terminated before the Excam Inc. sales began.

An international feud

Bernkrant's lawsuit also sought damages from the two gun factories in northern Italy run by Giuseppe Tanfoglio and his children.

The Tanfoglios challenged the lawsuit, claiming that the Bernkrants had cost the Italians thousands of dollars by persuading them to build more and more facilities to make guns — and then slashing the orders.

In the counter-complaint, the Italian gun parts manufacturer vividly described the extremes to which both Bernkrant and the Tanfoglios went to keep the handguns rolling off U.S. assembly lines.

"The Tanfoglios accommodated FIE in every respect, modifying the design of existing models, designing and producing new models, and increasing production ... with the result that eventually at least 90 percent of the output ... constituted production for the U.S. market, all for FIE," the Tanfoglios said in the counter-complaint.

Before the Bernkrants started buying gun parts about 1970, there was only one small Tanfoglio gun factory in the northern Italian mountains. To fill FIE's escalating orders for gun parts sets, Tanfoglio doubled its size, hired more workers and put in automatic machines.

In 1971, the Tanfoglio family said it also "built and equipped a new modern factory approximately eight miles distant from Giuseppe Tanfoglio's, for the sole purpose of satisfying the continuous demands ... for increased production."

The Tanfoglio family was turning out enough parts for FIE to assemble 1,800 Titans per month in 1970. By early 1972, FIE production was up to 10,000 Titans a month.

Bernkrant also played a dominant role in Giuseppe Tanfoglio's decision to produce sets of parts for a snubnosed .22-caliber revolver called the T18 — the gun the Italians claimed would cost them thousands of dollars when Bernkrant rolled back on his orders.

Federal firearms experts said the T18, which is no longer made, bore a remarkable resemblance to the RG 14 — the type of gun John W. Hinckley Jr. is accused of firing at President Ronald Reagan. The RG 14 was then — and still is — assembled in Miami out of German-made parts by RG Industries Inc., a company Eig helped to found.

This is how the T18 originated, as described in the Tanfoglio counter-complaint:

About March 1970, Bernkrant forwarded to Giuseppe Tanfoglio a short-barreled revolver "that had been purchased on the open market." Bernkrant asked Tanfoglio to "design him a competing model ... representing to Giuseppe Tanfoglio that such a model would be an excellent seller."

The Tanfoglios tooled up to make T18 sets and turned out 42,000 sets of parts. But then the Florida legislature intervened.

In August 1972, the Tanfoglios received a terse cable from Miami asking them to cease making parts for the T18 as well as other .22- and .32-

caliber revolvers. Sets for the Titan and a .38-caliber Derringer were to stay in production for another 30 days.

"Legislative situation bad," explained the cable. It was signed SOUGUNCO, the cable signature of FIE.

As W.E. Ethier, FIE's general manager, spelled out in a follow-up letter, the Florida legislature had banned the assembly of pistols and revolvers using imported parts.

"We have engaged a lawyer to try to reverse this law in court," he wrote. "If we are not successful, we intend to assemble the pistols and revolvers in a nearby state."

True to Ethier's letter, FIE hopscotched to Georgia immediately. Manufacturing records obtained under the Freedom of Information Act showed that between October and December 1972, the company assembled 5,350 pistols and 1,900 revolvers at a new assembly plant in Valdosta, Ga.

Later, Florida courts ruled that the state law against gun parts assemblers was unconstitutional. FIE promptly shut down the Valdosta plant and moved all its operations back to Miami.

All is calm again

Calm was restored to the Miami gun assembly business in mid-1976 just as Judge Thomas Edison Lee was preparing to hold a jury trial on the Bernkrant suit. The parties settled out of court on undisclosed terms.

Since then, the Tanfoglio factories have been even busier turning out gun parts. For now, the company has to satisfy the orders of two U.S. distributors of Tanfoglio guns instead of one.

One of the distributors is Excam Inc., which operates out of a small warehouse next to a railroad yard in Hialeah.

Federal records show that Bernkrant's cousin, Koss, remains its president, although Eig no longer is involved. Listed as vice president and secretary are Giuseppe Tanfoglio and his daughter, Mary Tanfoglio, the proprietors of the Italian factories that make parts assembled into guns by Excam.

The other U.S. distributor for the Tanfoglio guns is none other than Al Bernkrant's gun assembly subsidiary in Opa-locka — FIE.

The Tanfoglio .25-caliber Titan, which analysis showed was 5th leading crime gun

Handguns: the snub-nosed killers

Gunmakers defend gun law loophole

JUDITH GAINES
Cox News Service

"Murph" Bernkrant is a gunmaker angered by all the talk about banning the importation of gun parts. He searches for an argument and finds a parallel in the attacks of a guard dog.

"If you're training a dog for guard duty, you probably antagonize him by waving something at him — like a stick," said Bernkrant, who runs Firearms Import & Export Corp. in Opa-locka.

"If the dog is not overly bright, he'll attack the stick. But if he's very clever, he'll go for the throat of the person that's antagonizing him," Bernkrant said. "The press and the 500,000 vulture lawyers preying on the American public have been going after the stick instead of the person — attacking the weapon instead of the criminal."

Bernkrant's firm assembles handguns from foreign-made parts. The president's task force on violent crime recently recommended that the importation of gun parts be banned, which would close a loophole created when the importation of "Saturday night specials" was banned in 1968.

Firearms Import & Export, 4530 NW 135th St., Opa-locka, is one of the top manufacturers of handguns in America. Recently Cox Newspapers analyzed records listing 14,268 handguns that were used in crimes and recovered by police in 1979. Firearm Import & Export's .22 caliber Titan ranked No. 5 and its .38 caliber Arminius Titan Tiger ranked No. 14.

The Titan is made from Italian parts and the Titan Tiger is made from German parts.

A similar gun-assembly operation is German-owned RG Industries, whose RG 10s, 14s and 23s emerged as the No. 1 U.S. crime guns in the Cox analysis. RG assembles its handguns from foreign-made parts in a plant at 2485 NW 20th St., Miami.

Officials of companies such as RG Industries and Firearms Import & Export are not anxious to talk with reporters about their business.

"You can slant anything I say and make it whatever you want it to be," explained William Kirk, who, since 1978, has been the general manager of RG Industries. "The position of the firearms industry has been: we're better off not to say anything, and that way nothing can get twisted."

But Kirk and Bernkrant, a former dental supply salesman, agreed to interviews recently and made clear their anger over attempts to stop imports of parts sets.

"It's just a restraint of trade," said Kirk. "Restriction of distribution is not the answer. Let me draw a parallel for you. In the 1920s, they outlawed liquor. Who got liquor? Organized crime. If somebody wants anything bad enough, they're going to get it."

As Kirk spoke, the sounds of Latin voices and humming machinery filtered through the walls separating his office from the gun factory. Among the models of guns produced by this factory is the $39.95 Roehm 14 — the type of gun allegedly used in the attempted assassination of President Reagan.

Bernkrant, whose brother Al Bernkrant built the family's gun empire, also is angry about the task force recommendation. On the walls of his office hang pistols, rifles, shotguns, powder horns, antique revolvers, a clock made from the butt of a sawed-off rifle — and a medieval map of Brescia, Italy.

"The Italian town Napoleon bought his arms from," Bernkrant explained.

The town, in the mountains of northern Italy, also is the home of two factories that produce parts for the Titan, which Bernkrant's firm assembles.

If imported handgun parts were prohibited, Bernkrant said, his firm would not stop making cheap handguns.

"We'd make the parts in-house or subcontract to a domestic manufacturer. We would reduce the variety that we have. The cost would be about the same," he said.

"We could charge more if it would make the federal government and the press happy," Bernkrant continued. "But we feel like we're marketing a safe, dependable product at a price the average guy — who already barely makes it on his budget — can afford."

"They want to ban cheap parts because they think this means poor quality," said Kirk. "I've read reports that say RG guns, when they drop, they shatter, they fall to pieces. We've never had one do that. Just because it's less expensive does not mean it's poor quality."

A tour of Bernkrant's gun factory revealed a large, windowless, cement-walled assembly area. Several smaller rooms and alcoves branched off from the main area. Signs in bright red letters identified the "parts room," "bluing room" and "shooting room."

About 60 employes worked quietly — cleaning, soldering, dying frames, cylinders, barrels and grips, adjusting the calibration, retouching parts to cover nicks, assembling, then testing, the final product.

Neither Kirk nor Bernkrant denies that their weapons sometimes end up in the hands of criminals. But, as Kirk said, "You have to balance that with the social worth of what we're trying to accomplish."

The press and the 500,000 vulture lawyers preying on the American public have been . . . attacking the weapon instead of the criminal

Deadly Odyssey: From Miami via Ohio to Queens

The Snub-Nosed Killers

Handguns In America

Fifth in a series

Korean immigrant In Sook Han (above) at her liquor store in Queens where her husband was killed last year with a gun that was brought to the New York area and sold by Idelfonso "Junior" Cuevas (right), a black-market gun trafficker from Youngstown, Ohio. For Junior Cuevas, getting caught was the furthest thing from his mind when he got involved in gun trafficking about three years ago. It was all "very innocent," he recalled. "I never knew what I was getting into."

By Andrew Alexander
Washington Bureau

NEW YORK — It was Aug. 4, 1980, a balmy night in a normally peaceful Queens neighborhood, as three young Puerto Ricans quietly slipped into the small liquor store. Sensing trouble, In Sook Han instinctively inched behind the cash register near the front door.

She and her husband, Sool Sook Han, both Korean immigrants, had been spared from crime in the four years since they opened their store. But their fortune turned this night as one of the men started behind the counter toward Mrs. Han.

Hearing his wife's protests, Han emerged from the rear. He got only about 10 paces before he was shot twice in the chest with a short-barreled .38-caliber Arminius Titan Tiger revolver. It was a weapon which a Constitution Washington Bureau analysis lists as the 14th leading gun used in crime in America.

The trio fled, leaving Mrs. Han kneeling over her husband, sobbing and screaming for help as his life — and their dreams — quickly faded.

The gun had made an 8,000-mile trek before it killed Sool Sook Han.

Its parts were produced at the Weihrauch Armen Co. in West Germany. They were assembled in the Miami area by Firearms Import & Export Corp., part of the thriving Bernkrant gun enterprises. It was then given the brand name of "Arminius Titan Tiger" and sold by Southern Gun Distributors, another Bernkrant company in Miami, to a federally licensed firearms dealer in Ohio. He, in turn, sold it to a man who transported it to Brooklyn, where it was illegally sold on the street for a huge profit.

Idelfonso C. Cuevas lives 400 miles away from Queens in Youngstown, Ohio. He has never even heard of In Sook Han.

But federal law enforcement officials say the gun that killed her husband would not have come to New York if it were not for "Junior" Cuevas.

Cuevas hardly fits a bad-guy description. Father of three. Homeowner. Steady $25,000-a-year job at a General Motors assembly plant in nearby Lordstown. A soft-spoken, 37-year-old "confessed Christian" who loves his country and proudly proclaims, "I have always obeyed the law."

However during an 18-month period beginning in early 1979, Cuevas turned to crime — unwittingly, he says — as a black market gun trafficker who single-handedly transported more than 700 handguns to Brooklyn and Queens neighborhoods that are among America's toughest urban badlands.

Through gun traces, federal agents have been able to establish that no less than four of his smuggled guns subsequently were used in five homicides, 15 were used in armed robberies, 10 in shootings, and five were recovered during narcotics arrests.

Another 114 were seized a year ago when agents arrested Cuevas and several others, abruptly halting their lucrative gunrunning ring. But more than 500 remain in circulation in New York, a city that recorded 1,814 homicides in 1980 and another 706 during the first five months of this year — the vast majority involving guns.

To federal officials, the Cuevas case is a typical example of an illegal, often bloody, migration of guns across state lines — a traffic fueled by easy profits and marked by predictably tragic endings. It is also typical, they say, because seemingly model citizens like Cuevas so frequently play key roles in the proliferation of illegal guns.

The case also illustrates another, more troubling, fact about the nation's underground gun trade: Those individuals responsible for putting guns into the hands of criminals stand a good chance of escaping serious punishment, even if they're caught.

That was the outcome of the Cuevas case.

For Junior Cuevas, getting caught was the farthest thing from his mind when he first got involved in gun trafficking about three years ago.

It was all "very innocent," he recalled at his Youngstown home. "I never knew what I was getting into."

He had been visiting relatives in New York, something he did about once a month, when he was introduced to a friend named David Gonzales. The conversation turned to crime and where New Yorkers could purchase guns for protection.

New York has one of the nation's toughest gun control laws. Under the statute, guns cannot be purchased without a license. Obtaining the license can take a year or longer and is based strictly on an applicant's need for the weapon.

The effect has been to further restrict the availability of legally sold firearms in New York at a time when demand is increasing. Thus, New Yorkers turn to so-called "supplier states," where loose laws make purchasing guns as easy as buying a six-pack of beer.

Ohio is such a state: Unlimited numbers of firearms can be bought on the spot simply by showing a driver's license and signing a statement saying the purchaser is not a felon, a drug addict or a dishonorably discharged veteran.

The information is not verified. There is no waiting period.

Cuevas knew a source of cheap handguns that he could take to New York, where Gonzales and another man could sell them.

And so when he returned to Youngstown he went to see a quiet young man named Dale G. Clark.

Clark, who worked with Cuevas at the GM Lordstown plant, was a federally licensed gun dealer — one of about 186,000 in the nation — who sold firearms part time out of his home in the small town of Columbiana.

“We went out to see Clark and ask him a few questions and what we found just blew our minds.” —Federal firearms agent

"He came to see me and just said he needed guns ... He never told me what he wanted them for," recalls Clark, now 35. "It started out with one or two, then three or four, and then it just started getting bigger and bigger."

The wholesale trade

Mostly, Cuevas wanted Arminius Titan Tiger .38-caliber revolvers, the same kind used to kill Sool Sook Han. (The Titan Tiger is a 2-inch-barrel revolver that weighs slightly more than the .25-caliber Titan pistol. Both are assembled by the Bernkrant family's Firearms Import and Export Corp.)

"I bought them by the lot," Clark recalled, mostly through Southern Gun Distributors or The Village Trading Post, another wholesaler in nearby Oak Hill, Ohio. "The dealer's cost normally was somewhere over $70. But I was getting them for around $59 or $60 because I got a discount on every order of 12 or more. And, you see, I was buying like 50 or 60 or 75 at a time."

Periodically, Cuevas would show up at Clark's home, load the boxes of new guns into his car and make the eight-hour drive to New York, where he delivered them to Gonzales or another man. They would give Cuevas large amounts of cash, which he would take back to Ohio for Clark as payment for the next shipment.

Business was good for everyone.

Clark, by his own account, was making a profit of about $12 per gun.

Cuevas said he was being paid about $10 for each gun he transported.

And once the guns were resold on the streets of New York, federal agents say, they brought anywhere from $225 to $320 — a markup of more than 300 percent.

But what was good for the gun ring was not good for New York.

Some of the guns began turning up in crimes. Through serial numbers on each weapon they were traced by police to the wholesalers, who informed the authorities they had been sold to Clark.

In early December of 1979, an undercover agent working for the federal Bureau of Alcohol, Tobacco and Firearms — acting on an informant's tip that a gun ring was operating in Brooklyn — bought a .38-caliber Titan Tiger for $225 from an acquaintance of Gonzales.

A quick trace of the gun's serial number revealed it had been part of a shipment of 107 Titan Tigers that Cuevas had purchased from Clark in Ohio just three days before.

Four months later, an Alcohol, Tobacco and Firearms undercover agent in Brooklyn bought another Titan Tiger. It, too, was soon traced and found to be one of 180 revolvers Cuevas had purchased from Clark the previous month.

"By this time the link was too strong," recalls another agent involved in the case. "We went out to see Clark and ask him a few questions, and what we found just blew our minds."

Clark readily admitted selling hundreds of guns to Cuevas and voluntarily disclosed the sales slips. It was all legal, he argued, because Cuevas had signed the federal forms required with each purchase.

But that was not quite the case.

Clark had failed to file what are known as "multiple sales reports" — postcards that must be sent to local Alcohol, Tobacco and Firearms offices every time a dealer sells more than one gun to the same person within a five-day period.

"To tell the truth, I forgot all about it," Clark says.

His omission provided agents with the key for cracking the ring.

They warned Clark he could be prosecuted for failing to file the reports. And they hinted they were considering charges of conspiracy to transport firearms across state lines — a federal crime — even though Clark insisted he had never known where

Cuevas was taking the guns.

Unsettled by these possible legal consequences, Clark says he agreed to begin clandestine cooperation with the federal agents. The finale came within a matter of weeks.

Closing the ring

At about 3 a.m. on Sunday, June 1, 1980, Cuevas loaded 114 handguns into his new Mercury Bobcat and began the long trip to New York.

By transporting such large quantities of firearms, he recalls, he became concerned he might unknowingly be violating some gun laws. He was temporarily put at ease, he said, when Clark gave him a photocopy of his dealer's license. "I thought I was just like a registered agent acting for Clark," he said.

But still, Cuevas recalls, he remained suspicious all was not right and, as an added assurance, he remembers he insisted Clark accompany him on this trip.

And so together, they departed. They were not alone.

Unknown to Cuevas, Alcohol, Tobacco and Firearms agents tracked him from above in a small four-seat aircraft. To his car, they had attached a small "bird dog" transmitting device that enabled the agents to follow in unmarked cars.

At about 11:30 a.m., Cuevas' car was abruptly forced to a halt by several others on a highway ramp leading to Brooklyn. Federal agents with shotguns and drawn pistols leaped out and ordered him to freeze.

"At first, I thought it was a robbery," he recalls. "I didn't think I was doing anything illegal."

Several agents frisked him while others busily took inventory of the 114 firearms: 89 .38-caliber Titan Tigers and 25 new .25-caliber Raven pistols. Cuevas was arrested and subsequently charged with conspiracy to deal in firearms without a license and with illegal interstate transport of guns.

Clark was frisked and handcuffed in what one agent later described as a "fabricated arrest . . . to protect him because he was cooperating with us."

Later that day Cuevas, too, agreed to cooperate.

Accompanied by an undercover agent, he went through with the delivery to Gonzales, who was arrested as he reached to remove one of the guns from the car. Gonzales subsequently was charged with conspiracy and with receiving guns illegally transported interstate.

Two other Brooklyn men — Hernando Rua and Samuel Barreto — also were later charged with being part of the conspiracy by dealing in firearms without a license.

The gun ring had finally been broken.

The open circle

An insidious dimension of illegal gunrunning is that the weapons go on killing long after the trafficking has been stopped. Consider what happened after the Cuevas ring was broken:

- Several weeks later, an argument broke out in the basement of a Manhattan apartment building between 59-year-old Juan Colon and a 30-year-old woman. Colon, who had a previous conviction on a firearms charge, pulled out one of the .38-caliber Titan Tigers Cuevas had transported to New York and killed her. He then placed the gun to his temple and committed suicide. The woman left behind a young daughter who police say has since been placed in a foster home.

- About six weeks later, Sool Sook Han was gunned down in his liquor store. He left a modest insurance policy, but Mrs. Han says it was barely enough to help care for their four children. "My English bad. Now I must work all the time," she says. "What can I do?" Three men — Waldemar Vega, Jose Antonio Brito and Orlando Ramirez — subsequently were charged with second degree murder, but were allowed by prosecutors to plead guilty to a lesser charge of manslaughter. They are awaiting sentencing and could each receive a sentence of five to 15 years in prison.

- The following January, 18-year-old Luis Conception started quarreling with a man in a small store in a Puerto Rican neighborhood in Brooklyn, only a block from where an undercover agent had purchased one of Cuevas' guns. Several minutes later, Conception was dead of a bullet to the chest, fired from yet another of the guns Cuevas had hauled from Ohio.

- Several months later, a death in Queens. Macelino Reyes, 25, got into an argument in a bar. The other man left and quickly reappeared carrying one of Cuevas' Titan Tigers. He killed Reyes with a single shot to the chest.

But these are only the deaths. Federal authorities say they suspect perhaps scores of other people have been wounded with the guns Cuevas brought to New York. Victims like 26-year-old Evelyn Gonzales.

"We were in a bar just having a good time when this guy came up behind me and said, 'Hey, let me show you something,'" she recalls. As she turned around, he fired once into her belly and again into her right wrist, shattering the bone and paralyzing her lower arm.

"The guy got one year," she said. "Can you handle that? One year! I'm bitter. They always get off. Always. The people that shoot the guns, and the people that bring them here."

In the Cuevas case, she is almost right.

The maximum penalty for willfully failing to file multiple sales reports is five years in prison and a $5,000 fine. Dale Clark, who sold hundreds of guns to Cuevas without filing the reports, was permitted voluntarily to relinquish his dealer's license. No charges were sought because the government could not prove his omiss[illegible] was willful.

David Gonzales received a se[illegible]e of three years. His attorney [illegible] that would have been suspended were it not for a previous narcotics conviction.

As part of an arrangement with prosecutors, Samuel Barreto pleaded guilty to one of the charges against him and received five years probation.

Hernando Rua, the other defendant charged with unlicensed firearms selling, also pleaded guilty but did not appear for his sentencing and a warrant has been issued for his arrest.

And Idelfonso "Junior" Cuevas was permitted by prosecutors to plead guilty to one of the counts against him and received a $10,000 fine and six months in prison. However, the judge suspended the jail term and replaced it with five years probation after Cuevas' attorney argued he was "at best an agent or courier . . . and was not at any time in the business of selling firearms."

Besides, said the attorney, Cuevas cooperated fully with the authorities immediately after being arrested.

Several months ago, at Cuevas' home in Youngstown, a reporter informed him that some of the guns he had transported had been used in murders.

"I wouldn't be surprised," he said, somewhat dispassionately, as he sat on his porch sipping orange soda.

But as the conversation continued, the news began to trouble him.

"Is there any proof of that?" he asked. "If there were, I would feel very bad?"

After all, he said, the only reason he took the guns to New York was to help people protect themselves.

Gun lobby's firepower shoots down control bills

By Cheryl Arvidson
Washington Bureau

WASHINGTON — It comes as no surprise to find the gun lobby loudly opposing proposals that would impose restrictions on shotguns and rifles, require registration or confiscation of firearms or limit availability of the quality handgun.

But the 2-million-member National Rifle Association also is on the front line defending the inaccurate, often poorly made small handgun — a stand seemingly inconsistent with its 110-year history of promoting firearms safety, marksmanship and hunting. This strident opposition to handgun control has effectively eliminated any chance for national legislation to restrict small handguns, probably for years to come.

The Snub-Nosed Killers
Handguns In America

Last of a series

The National Rifle Association, with a $30 million-plus annual budget, is the richest and most influential pro-gun organization in the country, and it is also the most moderate of the three groups that constitute the gun lobby. Headquartered in Washington, the NRA has a lobbying branch which spends another $4 million a year to stop any attempt at gun control, even the most modest.

Operating from its own Washington office building, which includes a gun museum and target range, the NRA successfully orchestrates the scenario year after year: Gun control bills are introduced, talked about briefly and left to die in subcommittees because they just can't be passed in the House or Senate.

"I don't think I've got a snowball's chance in hell to pass it. Congress is just too conservative," said Rep. Marty Russo, D-Ill., about a bill he's been introducing since 1976 to prohibit the sale and manufacture of small handguns, cheap or expensive, by setting length restrictions on pistols and revolvers.

"If the president getting shot and the pope getting shot doesn't rattle these guys, nothing will."

The NRA defends the snub-nosed handgun as part of its overall goal of preserving the right of citizens to keep and bear arms.

"I think that there is room for compromise," Neal Knox, executive director of the NRA's lobbyist Institute for Legislative Action, says: "There are a lot of gun laws on the books I'd like to get rid of. I'm willing to compromise away some of those."

The NRA's top priority is passage of a bill that would weaken or eliminate many of the federal gun statutes now on the books. The McClure-Volkmer bill, named for Rep. Harold Volkmer, D-Mo., and Sen. James McClure, D-!daho, is being promoted by the NRA as getting government off the backs of law-abiding gun owners and gun dealers. Even though certain provisions cause concern to federal law enforcement officials, the bill has a good chance of passing.

"The handgun is a symbol," says Rep. John Ashbrook, R-Ohio, one of two congressmen on the NRA's board of directors. "It's a firearm. It would be the same thing if it were a rifle. The motives, intentions and past records of those who want to take away the handgun are not trusted by those who own the handguns."

'The handgun is a symbol... It would be the same if it were a rifle'

— Rep. John Ashbrook

The guns of violence

The NRA is just as opposed to closing a loophole in the 1968 Gun Control Act that, while banning imported handguns, allows foreign parts for Saturday Night Specials to be imported and put onto U.S.-made frames as it is to more drastic legislation — offered by Rep. Peter Rodino, D-N.J., and Sen. Edward Kennedy, D-Mass. — to ban Saturday Night Specials and require a waiting period and police check before any handgun purchase.

As a result, critics claim, the gun lobby has so muddied the water that a rational policy cannot be debated, let alone adopted, at a national level.

"The NRA, unlike any other group in the country, has just made mincemeat of the legislative process," said Sanford Horwitt, a consultant to the National Coalition to Ban Handguns and a former aide to Rep. (now federal judge) Abner Mikva whose work for gun control won him the lasting hate of the NRA.

"You can't get any kind of reasonable public policy on anything having to do with handguns, which is clearly a problem in this country, because this group refuses to deal with anything that begins to approach a reasonable public policy," Horwitt continued. "Because they have taken this extremist position on handguns, it has ended all discussions of it in the legislative arena. It's more than being single-minded. It's almost no-minded."

With federal channels closed, gun-

Editorial
Message to Lawmakers . . .
Stop Blaming Handguns!
GUNNERS: DON'T GET CAUGHT WITH YOUR FACTS DOWN!
THE INTRODUCTION OF STATE LAWS AND A NEW CASELESS AMMUNITION
FIREARMS LAW
WASHINGTON REPORT

Gun magazines keep tabs on legislation and issues affecting gun owners.

control advocates are coming to believe that local actions — such as a tough anti-gun ordinance recently passed in Morton Grove, Ill. — may offer their best hope of restricting deadly handguns.

Fixing the blame

Although the Bureau of Alcohol, Tobacco and Firearms has found in a succession of gun tracing studies that most guns used in violent crime had barrel lengths of three inches or less, the NRA sees no link between small guns and crime.

"They're trying to blame the gun for the crime, and they're trying to prohibit all guns," said Knox, discussing the attack on the small handgun. "There is no evidence whatsoever that the population of guns, small or large, has any effect on crime. No evidence. The advocates of legislation have the burden of proof on them to show that what they advocate would impact adversely on about half the households of the United States, they have the burden of proving that it's going to work."

Russo, a former states attorney for Cook County, Ill., doubts handgun-control measures would stop the hardened criminal, but he is convinced that getting rid of small handguns would stop "the heat of passion type situation, the argument, the spontaneous situation."

"There is no other reason why a small, concealable handgun is made in society except to shoot someone," Russo said. "The reason it is made small is so no one knows you've got it on you. With my bill, anyone could buy a gun and keep one at home, it would just be a larger size. It would make your pocket sag a little bit, it would stick out of your trousers. Somebody would see it."

"I've shot bears with handguns with a three-inch barrel," said Rep. John Dingell, D-Mich., the other member of Congress on the board of directors of the NRA, when asked why the NRA defends the small handgun. "When I hunt elk, I carry a small .22 automatic to shoot grouse for the pot or finish off elk."

"I'd like to sell tickets to the confrontation, and I'd also like to bet on the bear," answered Horwitt. "The fact is no one goes around shooting bears with a three- or four-inch handgun. It just isn't done. If we're down to that as to why someone refuses to support a ban on handguns, we're down to some pretty flaky people."

Knox, asked the "redeeming social value" of a small handgun, cites his wife's Smith & Wesson Bodyguard which he gave her for Mother's Day in 1958.

"I've carried my wife's . . . gun with me many a mile while hunting as a second gun," he said. "I've carried it with me while fishing. I've carried it with me while flying because I did all my flying out in Arizona, and that's some rough country, and a person who doesn't prepare himself . . . is making a mistake."

Knox, who as chief NRA lobbyist earns $63,000 a year, calls the small handgun "the best possible gun" for protection.

"In the case of a small gun, you can have that thing concealed right near the door, in a book where it's not visible to your neighbors coming in. They'll think you're a little bit strange if you've got a shotgun sitting in the corner by the door. A shotgun by the door, loaded, in my estimation is far more hazardous from an accidental standpoint than is a handgun in a nice, small place of concealment."

Gun supporters also say a small gun is easier for women to shoot and that the poor can afford a Saturday Night Special but not the better-made — and more costly — "snubbies" and full-sized handguns.

"I represent a very large number of poor and unfortunate constituents who can't afford big, fancy, high-priced handguns but want a gun because they live in high crime areas. I seen no reason why, because of price, firearms ownership should be just a prerogative of the wealthy," said Dingell, whose district includes an industrial section of Detroit.

"Looking at it from a racial standpoint," said Ashbrook, "the handgun is the only defensive weapon a poor person can afford. You'd think poor blacks, as victims of crime, would want handgun control, but they don't."

"Blacks had handguns solely for defense more than any other group," observed Knox.

When a reporter points out that blacks also are the victims of more handgun crimes, Knox said that is not because of the guns but because "blacks commit more crimes against blacks."

That reasoning is not upheld by the Congressional Black Caucus, which consistently votes as a bloc against the gun lobby.

The 'gutless' profiteers

With the exception of revenues received from advertising in its three magazines, the NRA has little association with gun manufacturers.

Ashbrook said he respects one domestic gun manufacturer, Bill Ruger, who heads Sturm, Ruger & Co., Inc., of Southport, Conn., but considers most other manufacturers to be "gutless" profiteers.

"I get a feeling they think if all the guns they sold were banned, they'd just sell them to the Iranians or something," Ashbrook said.

Ashbrook said the NRA is not in business to front for the gun manufacturers, and it functions solely to represent those who consider gun ownership a "fundamental freedom."

"It's a people issue, a grass-roots issue," Ashbrook said. "The NRA is only powerful because it speaks for people."

He ticked off four reasons for the NRA's success: "They have a limited area, they know what they want to do, they know where their friends are, and they know what laws they want to change and they do it."

Money and strong citizen support explain both the NRA's power and the trouble encountered by anti-gun groups such as Handgun Control Inc., and the National Coalition to Ban Handguns.

NRA members will contribute money when asked, write lots of letters and make telephone calls to their congressmen or senators to protest restrictive legislation or government regulations, and they turn out in large, vociferous numbers at rallies or public meetings where gun control is being discussed. The NRA's budget is 30 times larger than that of Horwitt's National Coalition to Ban Handguns.

'If (Reagan) getting shot doesn't rattle these guys, nothing will'

— Rep. Marty Russo

"They have never had a preprinted postcard campaign, at least in recent years," Horwitt said. "The letters are almost always typed or handwritten individually. They have developed an apparatus where they can crank out a tremendous amount of mail, which is evidence to a lot of legislators that the NRA really does have a sizable constituency that feels strongly about the issue."

"They'll vote on this issue," said a former aide in the Carter White House. "I daresay there's no issue on which you and I would vote, no one issue alone. That's what makes these groups strong."

Some anti-gun lobbyists contend the power of the NRA is overrated, but the group's reputation is so formidable that whether the power is real becomes almost irrelevant.

A House staf member recalls lobbying congressmen on gun-control legislation and citing public opinion polls showing a majority of Americans in favor of handgun control, only to have the members respond, "It doesn't matter. If they (the gun lobby) only control 2 or 3 percent of the vote in my district, that's enough because the margin (of victory) is only 5 or 6 percent."

One has to go back almost 10 years, to the Senate in 1972, to find a gun-control measure approved by either house of Congress. That bill, outlawing domestically produced Saturday Night Specials, died for lack of action in the House, and the Senate has not considered a piece of gun-control legislation since.

In the House, the closest gun-control advocates came was in 1976 when Russo, then a freshman, got the House Judiciary Committee to approve, 18-14, his proposal to outlaw the concealable handgun, only to watch the NRA swing into action and change enough votes to defeat the same proposal, 17-16, a week later.

Russo believes much of the NRA's strength comes from its ability to convince members that "as soon as they take the handguns, the next thing is your shotguns, then the next thing you know, the Russians will come and you won't have any way of defending yourselves."

"They portray, inaccurately I think, every issue as if the question is whether or not Mrs. Jones who lives in rural Florida is going to be able to have her gun to protect herself from the nightrider," said Richard Davis, who was the Treasury Department official overseeing the Bureau of Alcohol, Tobacco and Firearms in the Carter years.

The NRA and other pro-gun groups often do raise the confiscation spectre in their mailings. Anti-gun groups point to this in criticizing the NRA for misrepresentation and distortion, but Knox says that confiscation is exactly what handgun control is all about. The confiscation argument sells well among gun owners because of a basic distrust of government.

"If we only thought this (handgun control) was an honest effort to do this and nothing more, we might agree," Ashbrook said.

Pressed on the rising incidence of violent crime, gun advocates turn the discussion to attempts to punish the law-abiding citizens instead of altering a system of justice that goes soft on criminals.

"Any gun owner digs in when he sees what is done to the average criminal," Ashbrook said.

The militants arise

At one point, in the early to mid-1970s, the National Rifle Association seemed willing to compromise a little on handguns. A past president, retired Maj. Gen. Maxwell Rich, even proposed selling the NRA headquarters building in Washington and moving to Colorado, devoting the organization more to sport shooting and wilderness preservation than high-dealing politics.

But at about the same time, two militant pro-gun organizations, the Citizens Committee for the Right to Keep and Bear Arms and Gun Owners of America, were formed, pushing into the background the sporting side of the gun issue and going for pure politics.

> ***"I daresay there's no issue on which you and I would vote, no one issue alone. That's what makes these groups strong." —Carter White House aide***

The emergence of these rivals strengthened the resolve of hard-liners within the NRA to remain the leading pro-gun political force and brought the organization to internal war at a 1977 convention in Cincinnati.

Knox, one of the instigators of the 1977 coup, would become the NRA's chief lobbyist seven months later.

Rich was ousted as chief executive officer, his place taken by the current NRA president, Harlon Carter, 67, a former head of the U.S. Border Patrol. Earlier this year, the *New York Times* reported that when Carter was 17, he shot and killed a young Mexican in Laredo, Texas, but his murder conviction was overturned on appeal, and later the charges against him were dropped.

The NRA publishes three hunting and shooting magazines, and the Institute for Legislative Action distributes legislative news and opinion in a separate publication called *Report from Washington.*

Its campaign arm, the NRA Political Victory Fund, reported spending $1.1 million in the 1979-80 campaign, and the NRA takes credit for ousting half a dozen liberal Democrats in the Senate on the issue of gun control alone.

The Citizens Committee for the Right to Keep and Bear Arms of Bellevue, Wash., and Gun Owners of America, which operates out of California, focus heavily on political campaigns, leaving most of the congressional lobbying to the broader-based and better-financed NRA.

The Citizens Committee, with a $1 million budget, has one full-time lobbyist in Washington and produces a newsletter, *Point Blank.* Gun Owners of America, with an even smaller budget, works mainly to defeat anti-gun candidates and rarely lobbies in Washington.

Handguns have value & will travel

Cox News Service

WASHINGTON — Eli Flesher was returning with his wife from a Christmas Day outing in 1979 when he surprised a burglar and was shot dead in the living room of his Hobart, Ind., home.

Police later dragged a nearby creek and found the murder weapon, a snub-nosed .38-caliber Colt "Detective Special." When they traced the gun using its serial number, they unraveled a life history as typical as Flesher's death was tragic.

It had originally been purchased in 1973 by a local deputy sheriff. He sold it, legally, to a part-time deputy sheriff from whom it was stolen during a burglary in late 1978.

By the following summer, police say, the gun had turned up in the hands of a man who, under detectives' questioning, allegedly admitted selling it to the man who was subsequently convicted of killing Flesher.

In the previous six years the gun had passed through at least four different owners — from law enforcer to law breaker — all within a 15-mile radius of the small northwest Indiana town.

Its journey was hardly uncommon. G.R. Dickerson, director of the federal Bureau of Alcohol, Tobacco and Firearms, told Congress last year that more than 200,000 guns — the bulk of them handguns — "are stolen in residential burglaries each year and many end up in criminal hands."

The final report of the attorney general's Task Force on Violent Crime, issued last month, estimated up to 225,000 handguns are stolen annually.

But many think even that number is low.

A 1977 study by the Police Foundation, a non-profit research group, concluded that many firearms thefts are never reported.

"Someone who has not had to register the firearm, or who has ignored a request to register it, is not likely to report its theft," the study said.

Michael Lane, assistant director of the Bureau of Alcohol, Tobacco and Firearms said studies of handguns recovered in crimes show that "20 to 25 percent as a minimum are stolen. It's a favorite way of felons to get guns because they are untraceable."

A Police Foundation analysis of guns seized in crimes in New York City found about 40 percent had been stolen within the previous six months.

The bureau calculates there are about 54 million pistols and revolvers in the United States, and authoritative estimates say anywhere from 3 to 5 million of these change hands each year.

The largest percentage of those are legal sales through the nation's 186,000 federally licensed firerams dealers.

But most of the others migrate through a myriad of channels in ways frequently aimed at skirting federal, state and local laws intended to keep guns out of the hands of criminals.

Some are trafficked illegally in large quantities across state lines as part of well-organized black market operations.

Far more prevalent, however, are what the bureau calls "private transfers" such as those that take place at gun shows held throughout the nation.

"Record-keeping is often non-existent by many of the persons making sales" at these shows, Dickerson told a congressional hearing last year.

"It is documented that the Symbionese Liberation Army, the Black Panthers, the Hells Angels motorcycle gangs, and individuals such as Sara Jane Moore (who tried to assassinate former President Gerald Ford) all obtained crime guns at various gun shows."

Still other handguns are sold through classified advertisements in newspapers. A recent edition of the Sunday *Atlanta Journal-Constitution*, for example, carried a half column of classifieds for firearms, many of them handguns.

There are even publications consisting solely of advertisements for guns. Perhaps the best known is *Shotgun News*, which bills itself as "the trading post for anything that shoots." Published every two weeks, it typically runs more than 200 tabloid-sized pages replete with ads for tens of thousands of firearms, including handguns priced from $34 to a collector's pistol worth more than $50,000.

Less sophisticated are what one Alcohol, Tobacco and Firearms agent in Ohio labeled "gypsy" black market dealers who "move from town to town buying and selling guns wherever they can."

"I've seen these people just walk in a bar and say, 'Hey, anybody want to buy a gun.' " the agent said. "And more often than not, somebody will."

The most common migration of illegal handguns in the United States is from states with weak gun-purchase laws to those with tough statutes where buying a handgun requires a waiting period or a detailed background check of the purchaser.

"My impression is that trafficking in guns would stop if there were uniform laws in all 50 states," said Michael LaPerche Jr., bureau director of investigations for the New York region. "I am not saying people wouldn't be able to get guns. But as an interstate business, it would be finished."

A 1977 study of firearms seized in crimes in Washington, Boston and Chicago revealed that 80 percent had been purchased outside the cities. Through gun traces the study identified Florida, Georgia, Ohio, Arkansas, Mississippi and Texas as "major suppliers" because these states have such weak laws.

The bureau's agents who have studied gun trafficking patterns say many are smuggled along what they term the "I-95 corridor" that runs from Florida to New York, which has one of the nation's toughest gun registration laws. Other corridors run from Mississippi to Chicago or from Kentucky and southern Ohio to Detroit, they say.

"It's a crime in which anyone can get involved," said Lyman Schaefer, an Alcohol, Tobacco and Firearms supervisor in Washington. "All it takes is a car and gasoline and the nerve to do it."

Capt. Robert Gordon, head of the intelligence division of the New York City Police, said guns are often smuggled to his state by truckers who frequent Georgia and Florida. "It is easy for them to make small purchases to accommodate their friends," he said.

Gordon said a trucker can buy a handgun in Florida for anywhere from $45 to $60 and sell it in New York City for $250 to $350.

Trafficking handguns outside the country can bring much higher markups.

E. Dan Conroy, agent in charge of the Miami office of the Bureau of Alcohol, Tobacco and Firearms, said, "You can buy a gun here for $200 and sell it anywhere in the Caribbean and South America for $800 to $1,000."

Still other handguns fall into the hands of criminals after being stolen from firearms manufacturers, distributors or dealers.

However, although the bureau licenses these companies and individuals, it does not require them to report thefts.

Gun loan blows up on Uncle Sam

Joseph Albright

Cox News Service

WASHINGTON — For every big winner in snub-nosed gun commerce, there is also a big loser.

One of the losers was Uncle Sam, who took over a bankrupt gun factory four years ago and proceeded to auction its inventory of cheap guns and gun parts.

The Small Business Administration never intended to sell guns. It simply guaranteed a $400,000 bank loan in 1973 to Clerke Technic Corp., a small company in Santa Monica, Calif., whose president was listed in SBA records as John H. Clerke.

"He (Clerke) was a big shooter, involved in national rifle tournaments," recalled Emanuel Voda of Northridge, Calif., then a Clerke director.

Clerke Technic specialized in making $30 aluminum alloy revolvers, some .22-caliber and some .32. The shiny, snub-nosed guns — made in America of American parts — had Clerke's name stamped on the trigger housing.

A recent Cox Newspapers analysis found that the Clerke Model 1st .32-caliber revolver was the instrument of 2.6 percent of handgun crimes in 18 U.S. cities 1979. Among gun models most frequently recovered at crime scenes, the Clerke 1st ranked seventh.

Before issuing the loan to Clerke Technic, the SBA made a background check with California police. The agency did not find any reason to bar a small business loan to a gun factory, even one making cheap pistols.

On Aug. 25, 1976, Clerke Technic defaulted on the loan, SBA records show. The Clerke inventory of pistols, rifles, tooling and replacement gun parts was turned over to the SBA to satisfy the loan.

Voda said the gun company "could have made it" financially if it had stuck to making guns. Instead, he said Clerke Technic lost more money than it expected in a merger with a trophy company in Kentucky.

The SBA's Los Angeles office did what the agency normally does after a loan is defaulted. It hired a Los Angeles auctioneer, Ostrin & Ostrin, to dispose of the inventory.

In June 1977, Ostrin & Ostrin auctioned the remains of Clerke Technic. One lot, which included about 300 Clerke handguns, assorted starter guns and gun parts, was sold to another small gun maker, Royal Arms of El Cajon, Calif. For the guns and gun parts the SBA received $5,000. The auction produced another $28,854 for Clerke's gun-making tools, dies and other equipment.

The SBA did not consult the Treasury Department, which oversees handgun manufacturing, on the advisability of auctioning the remaining Clerkes.

Richard Davis, then Treasury official who supervised the Bureau of Alcohol, Tobacco and Firearms, said "I would have gotten into that" if he had been advised of the pending sale.

Frank Beall, owner of Royal Arms, said his business is making rifle stocks. He said he bought the lot of Clerke guns because it included some rifles he could sell.

As for the 300 Clerke handguns, Beall said he sent some to a junkyard because they were unworkable. He estimated he sold "40 to 50, maybe 100" to retail gun dealers. Subsequently, he said, he resold a batch of leftover Clerke gun parts and tooling to a man in San Diego.

Clerke Technic filed for bankruptcy in May 1980, federal records show.

Because the federal government orginally guaranteed 87 percent of the loan, the taxpayers are out $320,000 on the failure of Clerke Technic's gun factory. The Bank of America, which issued the loan under SBA guarantee, lost another $46,000.

Voda said he heard a few months ago that John Clerke has a new job making gun sights for "one of the bigger companies" in the firearms industry. Voda could not recall which company, and Clerke could not be reached for comment.

Taser gun immobilizes with electric jolts

By Cheryl Arvidson

Cox News Service

WASHINGTON — What do individuals do if they want protection but don't necessarily like the idea of a gun?

Are there any non-lethal defensive weapons of the type recommended for development in 1968 by the National Commission on the Causes and Prevention of Violence, headed by Milton Eisenhower?

In the late 1960s, the word Mace joined the vernacular as law enforcement officers turned to the immobilizing chemical for crowd control.

Although Mace is used mostly by police departments, some stores sell it in pocket-sized dispensers for civilian use. Soon Mace canisters will be available more widely. Smith & Wesson, the country's leading handgun manufacturer, will begin test-marketing chemical Mace dispensers in a few months, with a view toward offering them to the public at a price of about $9 to $10.

"We said, 'All right, we'll make it as safe as possible for use by an average person,' and we are doing that now," said James Oberg, president of Smith & Wesson.

Still, Mace has its drawbacks. It is effective only at close range, and the user stands the chance of immobilizing himself because the spray is hard to control in the wind. And Mace is ineffective against people high on drugs.

In the mid 1970s in Industry, Calif., Jack Cover, president of Taser Systems Inc., invented a non-lethal weapon called the Taser.

Although most Americans have never heard of it, Cover believes the Taser is the alternative weapon recommended by the Eisenhower commission. Spawned from space-age technology, the Taser is, in the words of one federal firearms official, "a little bit Buck Rogers."

The Taser — a combination flash-

Jack Cover's Taser gun, cartridges and holster

light and protective weapon — is gray, about nine inches long and weighs a pound and a half. It stuns its target into submission by sending out jolts of electric current.

A reporter visiting the Alexandria, Va., office of Wayne Clark, Taser's East Coast distributor, found that the Taser looks more like a flashlight than a gun. Among recent Taser buyers, Clark said, were a couple who had been held hostage in bed by a gun-toting intruder, a priest, a restaurant owner and some modern-day "bounty hunters" who wanted to capture their suspects without having to shoot them.

Aiming the Taser at a man-shaped target on the wall about 12 feet away, the reporter, who had never fired a gun of any type, pressed a button and placed two small darts roughly in the vicinity of the flashlight's beam, striking the target in the upper chest and lower torso.

The Taser's darts resemble tiny needle-like fish hooks, each about one-quarter inch in length. The darts are connected to the Taser by a thin insulated wire 15 feet long, hence the 15-foot range of the weapon.

Once contact is made, the Taser sends out short spurts of electric current that cause involuntary muscle contractions. These spasms — described by Dr. R.K. Wright, chief medical examiner for Broward County, Fla., in a 1978 magazine article as "akin to an intermittent near total-body charley horse" — cause the victim to lose his balance and fall to the ground in less than one second.

A two-to-three second burst of electrical current from the Taser stuns the average person for three to five minutes. An extra shot of current can be used if needed. The Taser holds two cartridges, so it could be used against two assailants at one time. It can be reloaded in a matter of seconds if additional help is needed.

The entire body is the target area. Darts are virtually as effective in clothing as they are if they hit bare skin. In LaCrosse, Wis., a man wearing a heavy fur winter coat was "Tasered" and went down almost immediately.

In the hands of an adult, the Taser is safer than most weapons. In 1976, the Consumer Product Safety Commission performed a four-month study and concluded that the Taser was non-lethal.

In more than 1,000 documented cases where the Taser was used, there have been no reported lasting injuries, Cover said.

There is, of course, a possibility of eye injury. Chances are lessened if the user aims the weapon at the victim's chest. Injury could also occur as the victim is falling.

The high-powered flashlight operates with standard batteries, while the weapon uses a recharger much like a strobe light on a camera.

One drawback is the cost — $279.95, including two cartridges, a vinyl holster and a recharger cord. The cartridges can be used only once, and additional cartridges cost about $11 each.

"I'm glad to say the better handguns are still more (costly) than we are. They run about $350," Cover said. "All of us are above the $49.95 Saturday Night Special."

To discharge the darts from the cartridge, the Taser uses a small amount of gunpowder. That is why the Taser — although clearly not a gun — is classified as a handgun by the Bureau of Alcohol, Tobacco and Firearms. This poses a marketing problem for Cover and perhaps explains why so few people have heard of a Taser.

"We're in a Catch-22 situation," Cover says. "We're trying to provide an alternative to handguns for self-defense, but we're required to sell through gun dealers and basically advertise in trade journals where non-devotees of handguns don't go and don't read."

Cover doesn't argue with those who describe the Taser as a "space-age weapon."

"I'm convinced that it is, not so much because of the Apollo technology that's in it, but because we're having such a problem getting U.S. society to accept it. People are so used to growing up with lethal weapons that they accept guns. But people are having a problem opening their eyes and saying here's something that will stop a suspect faster with almost no chance of injury," Cover said.

Although the Taser can be — and has been — used by criminals, Cover stresses that it is far better as a defensive weapon.

"The Taser is not a good offensive weapon. You're limited to a 15-foot range. How can you hold people hostage with a non-lethal weapon? If there is a witness, the victim will always remember the face."

NRA forces agency to let up on gun laws

By Cheryl Arvidson
and Joseph Albright
Washington Bureau

WASHINGTON — The director of the Bureau of Alcohol, Tobacco and Firearms says the agency has "tempered" its enforcement of the nation's gun laws because of criticism from the National Rifle Association.

Bureau director G.R. Dickerson, interviewed before his agency was targeted for probable elimination by the Reagan administration, said the agency has changed some of its law enforcement tactics either in response to NRA criticism or for fear of giving the powerful gun lobby more ammunition.

Dickerson began revising the agency's gun law procedures shortly after he took over as head of the Treasury Department agency in February 1979. At the time, the agency was being criticized for investigations of gun dealers that the NRA called "harassment of law-abiding citizens." And the agency was still stinging from a vote in Congress to cut off funds to implement some proposed gun tracing regulations that the NRA charged were tantamount to national gun registration.

Although denying that any investigations were terminated because of NRA interference, Dickerson said, "It's true that I put constraints on initiating investigations because I wanted to make damn sure that the cases that we have are quality cases. That was partly in response (to NRA criticism) making a lot of little cases where we were going to get criticism and where we were going to go through this debilitating type of argument."

Initially, Dickerson's personal approval was needed before bureau agents could investigate a gun dealer.

"I just wanted to make sure that those investigations of dealers were (of) dealers who really were involved in some type of criminal conspiracy, really were involved in the criminal element or providing guns for criminal use," the director explained.

The policy has since been modified to allow the special agent in charge of a metropolitan area to approve a preliminary investigation, but prosecution of a gun dealer requires the approval of the bureau's regional director.

Dickerson said these requirements have limited the agency's investigations of gun dealers to cases "where I can show a criminal conspiracy and that type of thing, not just those who make some technical violations."

"I will admit there are certain times when I feel hampered," he said.

As an example of how things have changed, Dickerson recalled a 1970-73 agency offensive in South Carolina, which at the time was a major source of crime guns smuggled to other states. The federal effort resulted in passage of a state law requiring better identification for would-be purchasers and imposing a waiting period so police can determine that purchasers are not felons.

"...I think we documented in those days something like 40,000 guns out of South Carolina to New York City, and the bureau did move in and did take criminal action against something like 30 or 40 dealers. The ramifications of that from the NRA were pretty bad, and I think that has made us sensitive about those kind of cases," Dickerson said. "I think that was good, and I think maybe some of those should have been administrative actions — suspending licenses — against criminal actions."

Asked whether the agency would consider a similar offensive against a gun supplier state such as Florida, Georgia or Ohio, Dickerson replied, "I just don't think we could probably do that today, so to that extent, I would admit that we have been sort of tempered by the NRA."

Another area of sensitivity to the NRA is the agency's attempts to match up multiple sales slips — records that must be filed by a gun dealer if an individual buys more than one handgun within five business days — with the names of known narcotics violators. The bureau and the Drug Enforcement Administration have been trying to get such a program off the ground in Miami.

"Some of our people have had concern that that would arouse the ire of the NRA, but on the other hand, I say that I think there's a justifiable action," Dickerson said, because of the number of people being killed in Miami narcotics deals.

In our opinion

THE JOURNAL HERALD

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William H. Wild, Editor, Editorial Page
Laurence S. Newman Jr., Associate Editor, Editorial Page

Behold, I am the Lord, the God of all flesh: is there anything too hard for me Jer. 32:27.

Page 18 Dayton, Ohio Saturday, September 12, 1981

Laws can limit deaths by handguns

The last installment of *Guns of Violence* did not end today with a list of conclusions.

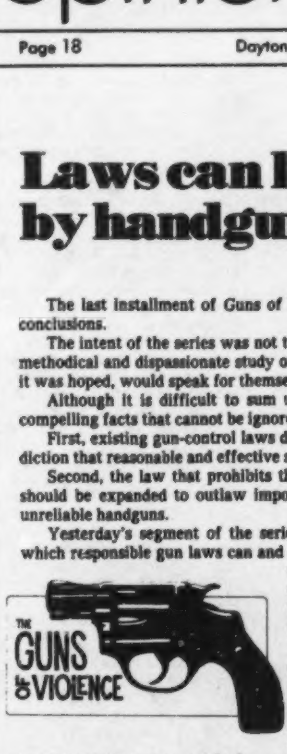
The intent of the series was not to recommend but to discover — through a methodical and dispassionate study of the migration of handguns. The findings, it was hoped, would speak for themselves.

Although it is difficult to sum up such a massive project, there are two compelling facts that cannot be ignored.

First, existing gun-control laws differ so radically from jurisdiction to jurisdiction that reasonable and effective statutes are being nullified.

Second, the law that prohibits the importation of Saturday Night Specials should be expanded to outlaw importation of component parts of the cheap, unreliable handguns.

Yesterday's segment of the series was a vivid example of the ease with which responsible gun laws can and are being subverted. Ohio is a source state for guns throughout the nation because, in most areas of the state, prospective gun buyers may purchase as many weapons as they wish simply by signing a few forms.



Because background checks are not done and waiting periods are not required in Ohio, gunrunners have established elaborate and lucrative schemes to supply gun buyers in states with more restrictive controls. The result is that Ohioans sell more guns, gunrunners make huge profits, and gun purchasers use the weapons to commit crimes.

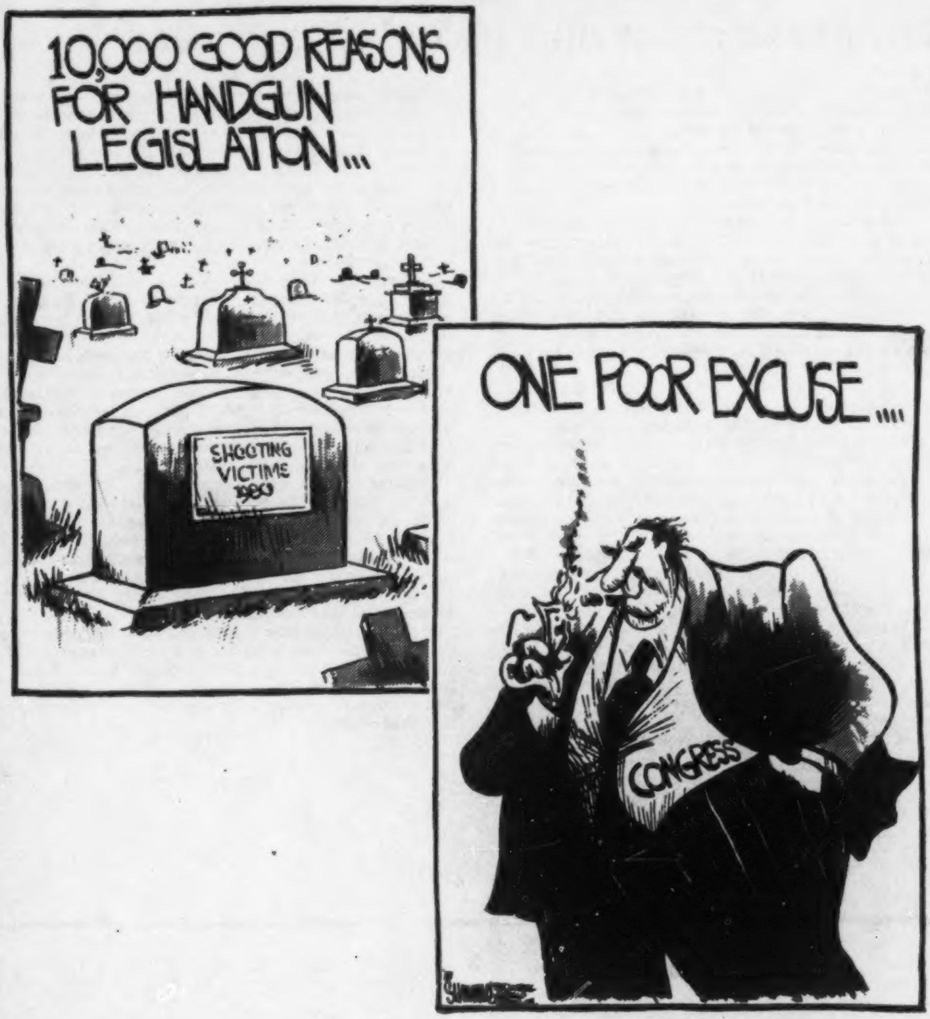
Ideally, Congress should approve a national gun control statute requiring background checks and waiting periods before the purchase of guns. Because that is unlikely to happen, Ohio has a responsibility to act on its own.

The most effective way to prevent the 10,000 annual deaths by handguns would be to outlaw the weapons entirely, or at least require that ownership be contingent upon proving need. Although neither proposal is likely to receive the support needed to call even a legislative hearing, the requirements could end the unnecessary carnage that takes place 27 times daily in the United States.

At minimum, however, Congress should shut off the flow of imported component parts for the cheap Saturday Night Specials. They are so unreliable that no sane person would buy the handgun to use as a defensive weapon, and the guns serve no sporting purpose. Moreover, they are the nation's No. 1, No. 5 and No. 14 crime guns.

There is literal truth to the slogan, "Guns don't kill people, people do." But by failing to responsibly regulate the sale of guns, Congress and the states have effectively encouraged crime by making it easy for criminals to own guns.

As potential victims we should be frightened. As citizens we should be outraged.


10,000 GOOD REASONS FOR HANDGUN LEGISLATION...
SHOOTING VICTIMS 1980
ONE POOR EXCUSE....
CONGRESS

The Miami News **Opinion** Thursday, September 17, 1981

Congress must end growing gun peril

A recent series published in The Miami News demonstrates the awesome extent to which handguns have proliferated in the United States. The stories, moreover, amply illustrated the correlation between the increasing legal and illegal sale of handguns and the rise in violent crimes, and underlined the urgent necessity of national handgun-control legislation.

The series, written by a team of Cox Newspapers' reporters, including those of The Miami News, and headed by Joseph Albright of Cox's Washington Bureau, clearly demonstrated the need to stop companies from using imported parts to assemble cheap handguns in this country. And after that is done, the domestic manufacture of cheap handguns should be banned as well, and all readily concealable guns should be registered when they are purchased.

Since the series pointed out that recently-purchased guns are most often used in the commission of crimes, it is also obvious that it would be in the best interest of law-abiding Americans if Congress were to pass a national 72-hour cooling-off period before a gun could be purchased.

The series, painstakingly researched and based on the descriptions of 14,268 handguns seized by law enforcement officials during street crimes committed in 18 metropolitan areas during the first nine months of 1979, revealed Miami's notorious role in the assemblage of cheap handguns. And, up to 225,000 handguns are stolen annually in Florida, which has weak handgun-control laws and, as a result, is a major link in the trafficking of handguns.

The nation's most often used crime weapon was a small handgun assembled in a Miami factory from parts manufactured in West Germany. Another inexpensive handgun that frequently turns up at crime scenes throughout the nation is assembled in two plants in Dade County from parts manufactured in Italy.

In 1968, Congress passed a gun-control law that prohibited the importation of cheap handguns. Since then, however, several people have become rich, and thousands of others have been silenced, because of a loophole in the law which permits parts to be imported so the guns can be assembled in the United States. That loophole should be eliminated so the merchants who feed on the anger, the hostility and the violent nature of others will be forced to find another source of nourishment; so the many innocent victims of handgun violence will remain innocent without also becoming victims.

There is, as it has been repeated over and over, no sporting purpose for a cheap, easily concealable handgun. Their only purpose is to kill people. In any given year, one out of every 100 handguns in the United States is involved in a crime, so as the number of handguns increases, so do violent crimes involving handguns. And the number of handguns has risen from 9.7 per 100 persons in 1945 to 23.9 for every 100 persons in 1980. To put it another way, there were about 13 million handguns among the nation's 133 million people in 1945, compared to 54 million handguns in a population of 226 million in 1980.

As the series revealed, the increase of violent crime involving guns goes far beyond the proliferation of cheap handguns. But the ready availability of much more sophisticated guns is a direct result of the mentality that says it is an American's birthright to own a gun, an attitude which also implies the right and even duty to use it.

Based on facts, figures and dead bodies, the series demonstrates how important it is for Congress and the American people to set a detailed gun-control agenda and to go down the list item by item in an attempt to change public attitudes and halt the carnage. The historic trend is clear: Unless gun controls are enacted, the number of guns in circulation will continue to increase, and so will the number of violent crimes.

MONDAY, NOVEMBER 23, 1981

The Washington Post

AN INDEPENDENT NEWSPAPER

Ban the 'Snubbies'

YESTERDAY'S Outlook section contained an analysis by Cox Newspaper reporter Joseph Albright that suggests a way out of the sterile—and murderous—deadlock over whether to control handguns. Mr. Albright and his colleagues looked behind the familiar slogans in the hope that the facts would provide clues to a more useful approach. They found one. After analyzing records of 14,000 guns used in street crimes, they discovered that the one characteristic most of these guns had in common was not the low quality, low price or foreign origin that characterizes the so-called Saturday Night Special. Rather, 11 of the 15 handguns most often used in the commission of murder, armed robbery and other street crimes had snub-nosed barrels of 2.5 inches or less. That is, the most attractive feature from the criminal's viewpoint was—not surprisingly—concealability. The short-barreled gun also turns out to be the weapon of choice for assassins. According to Mr. Albright, 10 of the 15 assassination attempts on major American political figures since 1835 involved the most concealable type of handgun available at the time. Included in the list are the attacks on Presidents Lincoln, Roosevelt, Ford and Reagan.

"Snubbies," as they are called, are frequently expensive and of relatively high quality. But regardless of the price, their short barrels mean inaccuracy at anything beyond point-blank range. They should therefore be of little interest to legitimate hunters, hobbyists and target-shooters.

The favorite argument of those who oppose handgun control is that banning or registering guns would disarm only law-abiding citizens. The argument has been raging for years with no agreement in sight. Mr. Albright's findings suggest that there *is* a way selectively to disarm criminals—by banning the "snubbies," their weapon of choice. Those who feel safer with a gun in the bedside table or next to the cash register can continue to keep one there. There is no need that it be very small. But the gun that slips into pocket or purse as easily as a wallet could—and should—be outlawed.

THE NEW YORK TIMES, WEDNESDAY, NOVEMBER 25, 1981

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'Snubbies' on the Streets

Gun enthusiasts typically argue that limiting guns in order to fight crime would also limit them for legitimate use — hunting, target shooting and self-defense. An article excerpted in The Washington Post suggests a compromise: don't restrict all guns, just those most often used in crime.

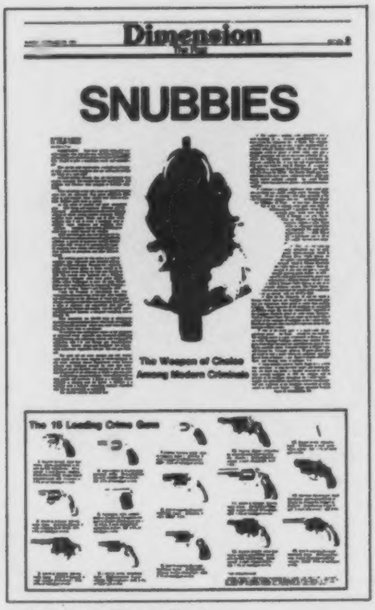
Those, it turns out, are the short-barreled handguns known as "snubbies," according to a study by Joseph Albright, a reporter for Cox Newspapers, and a research team. They used a computer to analyze 14,000 handguns confiscated from street criminals during the first nine months of 1979.

The analysis showed that 11 of the 15 handguns most often used in crimes had snub-nosed barrels measuring 2.5 inches or less, suggesting that criminals acquiring guns are most interested in concealability, even more than cost: prices of the most popular criminal guns ranged up to $330.

Snubbies are favorite weapons of assassins. They were used to shoot at Presidents Ford and Franklin D. Roosevelt, as well as at Senator Robert Kennedy, Gov. George Wallace, Mayor George Moscone of San Francisco and John Lennon, the former Beatle. The attack on President Reagan last March was with the best-selling snubbie, the .22 caliber Roehm RG14.

It's also important to realize how the snubbie is not used. Because it is accurate only at extremely short range, it is not used for hunting or target shooting. Its poor accuracy also limits its usefulness for home protection. In fact, unless you're a police undercover agent, it is hard to think of any good legal use for a snubbie.

In 1934, Mr. Albright points out, Congress passed a law severely restricting "gangster-type weapons": machine guns, automatic rifles, sawed-off shotguns. In the same spirit, and without in any way jeopardizing the freedom of true gun enthusiasts, Congress could now restrict "street-crime type weapons" — snubbies — as well.



Dimension

SNUBBIES

The Weapon of Choice Among Modern Criminals

The 15 Leading Crime Guns

- The Palm Beach Post

Bart, Defense Hammer Saints, 27-0

Sports, Page 1-D

The Atlanta Journal
THE ATLANTA CONSTITUTION

The Name Of September's Political Game Is Money

Two Labor Leaders Rip Reagan

The Snub-Nosed Killers

Two Short Guns Vie For Pocket Space

A Ph.D. In Macon's School Of Hard Knocks

- The Atlanta Journal-Constitution

Context The arms race

THE JOURNAL HERALD

Ohio gun connection deadly

United Way, AFL-CIO agree

Begin's talks with Reagan a triumph

Boxed in

- The Dayton Journal Herald

For gun control

Against gun control

Powerful gun lobby rolls over opposition

Tasers zap criminals with electricity, not bullets

- The Miami News

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WEAPONS AND VIOLENT CRIME:

EXECUTIVE SUMMARY

James Wright and Peter H. Rossi
Social and Demographic Research Institute
University of Massachusetts
Amherst, MA 01003

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1981

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ABSTRACT

This Summary highlights key findings, results, and recommendations from a two-year research study on "weapons and violent crime" conducted by the Social and Demographic Research Institute, University of Massachusetts, Amherst. The project consisted of three major parts: a comprehensive review of existing literature and an accompanying annotated bibliography; a survey focused on weapons and crime data gathered and archived by the United States police; and an analysis of the effects of weapons use on felony case disposition in Los Angeles.

I. The Literature Review. The review covers all major research literatures related to weapons and weapons use in the United States, both licit and illicit. The existing stock of private firearms (as of 1978) is estimated at 120 ± 20 million guns, an increase of some 40 million over ten years. Growth in the number of US households, increased sport and recreational demand, additional weapons purchases by families already owning one or more guns, and enhanced small arms demand among the US police appear to account for most or all of the 40 million gun increase. Despite a common hypothesis, there is no good evidence that the fear of crime and violence was a very important factor.

Roughly three-quarters of the private firearms stock is owned primarily for sport and recreation; the remainder, for protection and self-defense. Ownership for sport and recreation is essentially a cultural phenomenon, a product of early childhood socialization. Relative to non-owners, gun owners tend to be male, rural, Southern, Protestant, affluent, and middle class.

There appear to be no strong causal connections between private gun ownership and the crime rate. Crime may be a motivating factor in the purchase of some protective weapons, but these constitute no more than about a quarter of the total private stock. There is no compelling evidence that private weaponry is an important cause of, or a deterrent to, violent criminality.

Over the past two decades, the trend in all categories of violent crime is upward. Crime rates peaked in the early 1970's and have been more or less stable since (through 1978). Approximately 30,000 deaths occur annually as the result of accidental, homicidal, or suicidal uses of guns. Studies of "crime guns" confiscated by police confirm that they are predominantly handguns; a sizable fraction enter criminal channels through theft from residences; many are found to have crossed state lines before their use in crime.

It is commonly hypothesized that much criminal violence, especially homicide, occurs simply because the means of lethal violence (firearms) are readily at hand, and thus, that much homicide would not occur were firearms generally less available. There is no persuasive evidence that supports this view.

Majorities of the US population have favored licensing or registration of private firearms, especially handguns, for as long as pollsters have asked the question. Measures substantially more strict than these (for example, bans on the ownership of handguns), however, do not enjoy majority support.

There are roughly 20,000 "gun laws" already on the books; the wide variability of provisions across jurisdictions tends to vitiate the effects of these laws. In general, evaluation studies of the effects of gun laws on crime tend to show that these effects are modest or non-existent, although there are some apparent exceptions to this conclusion.

II. The Police Department Survey. A probability sample of US police departments was surveyed by mail; the response rate was approximately 70%. All departments generate extensive and detailed information on weapons use in crime, and most departments see weapons crime as an important part of their overall crime problem. Most departments now gather and maintain, in some form, the data necessary to generate annual statistical reports on gun crime in their jurisdictions. However, the data gathering and management practices in some departments are highly inefficient towards this end, and in general, departments are not enthusiastic about additional reporting requirements. Most departments have direct access to, and make frequent use of, the NCIC weapons tracing service; usage of the BATF system, in contrast, is rare. In general, we conclude that police records on weapons and crime are a potentially fruitful and, so far, underexploited resource for weapons and crime information.

III. The Los Angeles Study. The project acquired Prosecutor's Information Management System (PROMIS) data from Los Angeles on ~80,000 felony arrests for an eighteen-month period. About 14% of these felonies involved a gun; an additional ten percent involved some other weapon. Holding other relevant variables constant, we find that gun offenders receive harsher treatment at all stages of court processing: they are less likely to be dismissed at initial screening, more likely to be arraigned and formally charged, and, upon conviction, tend to receive substantially longer prison sentences. These findings generally replicate the Cook-Nagin (1979) study of weapons offenders in the Washington, DC courts.

Weapons and Violent Crime:

Executive Summary

I. Foreword

In 1979 and 1980, the Social and Demographic Research Institute (University of Massachusetts, Amherst), under a grant from the U. S. Department of Justice, conducted a broad-ranging research project on the topic of weapons, crime, and violence in the contemporary United States. Findings, results, and recommendations from the project are contained in a series of four Research Reports:

I. James Wright, Peter Rossi, Kathy Daly, and Eleanor Weber-Burdin. Weapons, Crime and Violence in America: A Literature Review and Research Agenda.

II. James Wright, Huey Chen, Joseph Pereira, Kathy Daly, and Peter Rossi. Weapons, Crime, and Violence in America: An Annotated Bibliography.

III. Eleanor Weber-Burdin, Peter Rossi, James Wright, and Kathy Daly. Weapons Policies: A Survey of Police Department Practices Concerning Weapons and Related Issues.

IV. Peter Rossi, Eleanor Weber-Burdin, and Huey Chen. Effects of Weapons Use on Felony Case Disposition: An Analysis of Evidence from the Los Angeles PROMIS System.

Here, we summarize the design and rationale for the project as a whole, discuss the main research findings, and highlight the conclusions and recommendations set forth in the various Research Reports.

Several notes of caution regarding this Summary are in order. First, the Summary is a representation in about sixty pages of a set of reports that run, in total, to well over a thousand pages. What is said here, in short, is very much less than what needs to be said about all topics covered. This Summary is thus adequate as a map to the contents of the Research Reports, but not as a substitute for them.

Most of the empirical findings discussed here are distillations from the reported results obtained in other research. In a few cases, the available research converges quickly and sharply on a substantive conclusion; in most cases it does not. Indeed, contradictory evidence and inconsistent interpretations of evidence are distinguishing characteristics of this literature. In all cases, the conclusions summarized here are those we find most justifiable given the present state of knowledge and research. In many cases, however, the band of uncertainty around these conclusions is quite broad.

While the existing literature on weapons, crime, and violence is voluminous, many important topics have not been adequately researched, and some have not been researched at all. For this reason, many of our conclusions are cast in essentially negative terms; for example, "There is no compelling evidence that..." or "There is little empirical support for the idea that..." It is therefore critical to emphasize that the absence of evidence cannot be taken as evidence of absence, a well-known although often forgotten methodological point.

To illustrate, we conclude that there is little or no compelling evidence to support the hypothesis that the recent increase in private armament in the US has been a result of fears about crime and violence.

This is not to conclude that fear of crime and violence played no role in the "domestic arms buildup," but rather that no one has yet shown this to have been the case. There is every difference between concluding that the appropriate research has not been conducted, and concluding that appropriate research was done but reported negative results. It is a serious error to mistake the former conclusion for the latter.

"What to do about guns" and "what to do about crime" are hotly contested, indeed inflammatory, political issues, and no amount of scholarly research, however well-conceived, will ever lay them to rest. In the conduct of this project, we have tried to put aside our own biases and give all the evidence on both sides a fair and impartial hearing. For the record, one of us (Wright) has previous publications that reflect a fairly obvious pro-gun-control stance.[1] At least some reviewers of the present project claim to detect the same bias here. Indeed, one found "an anti-gun bias which slips in constantly" that "overrides logic and professional objectivity." At the same time, other reviewers have reported considerable distress about the apparent "pro-gun bias" in our present reports. That reviewers "detecting" the anti-gun bias have all been strongly affiliated with the pro-gun lobby, and those "detecting" the pro-gun bias all strongly affiliated with the anti-gun lobby, suggest to us that we have probably come closer to an objective treatment than ideologues on either side are willing to admit.

Readers looking for recommendations about firearms or crime policies at either local, state, or Federal levels will be disappointed. It is neither our purpose nor our expertise to "advise" on matters of national policy in these areas. Our purpose, rather, was to evaluate the existing stock of information about weapons, crime, and violence in the society, to note the conclusions that seem adequately supported by existing research and those that do not, and to recommend to the National Institute of Justice an agenda for future research in the area. Thus, this Summary, and the Research Reports on which it is based, are oriented more heavily towards research than towards social policy issues. We review in great detail studies of the effects of laws that have been passed before, and we review the existing poll evidence on what laws the public think ought to be passed, but we do not make any recommendations about what laws we think ought to be passed or about any other aspect of firearms and crime policy.

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[1] See "Who Owns the Sidearms? The Demography of Gun Control." The Nation 221:8 (September 21, 1975), pp. 241-244.

II. Overview of the Project

The control of civilian armament and the control of crime and violence in the society are important public policy issues. Here as elsewhere, policy formation and implementation are best undertaken from a sound information base. This is especially true in policy areas that are highly politicized and hotly contested, as in the present case. When the lines of political battle are sharply drawn, society runs the risk of basing policies on emotive imagery and facile assumptions, and in the process, needlessly alienating some segments of the population while at the same time failing to achieve the intended policy effects. The overriding purpose of the "Weapons and Violent Crime" project was thus to assemble, from existing sources, as complete and accurate an information base as the present state of the research art allows.

In brief, the aim of the project was to take stock of what is now known about the relationships, if any, among weapons, crime and violence, to assess the possible utility of alternate sources of evidence on these relationships, and to prepare a research agenda that would close the more gaping holes in present knowledge.

This stock-taking effort proceeded along three separate, although interrelated, lines. First, we undertook an exhaustive review of the existing scientific and research literature in this area. Our intention was to compile virtually all existing published evidence on the issues of weapons, violence, and crime. Thus, the review deals with topics ranging from the numbers of civilian firearms to what is presently known about the motivations of violent offenders and the relationship between these motivations and the lethality of violent attacks, to the relationship between weapons regulations and rates of criminal violence.

In general, for reasons we explain below, the published literature is more noteworthy for what it does not show than for what it does. There is, it appears, scarcely a single finding in the literature that could be said to have been indisputably established. In part, this reflects the highly politicized nature of research in this area, but perhaps more importantly, it results from a near-total absence of sound and nationally generalizable data from which reliable information about weapons, crime, and violence might be extracted. A second aim of the project was thus to explore the possible research utility of two sources of information on weapons and crime that have not been exploited to any great degree in past research, namely, information gathered by the police and the courts.

Police records represent a potentially vast source of information on the uses of weapons in crime — at least, on the uses of weapons in crimes known to the police. It is self-evident that the use of weaponry in crime is a matter to which the police are attentive, and thus, that immense amounts of information already exist in police records. The key questions of concern to the project were the form in which this information is stored, its completeness and availability, and the ease with which it could be accessed and analyzed for research purposes.

In order to answer these questions, we conducted a survey of the US police, focused on their information-gathering, information-recording, and data base management policies in the weapons and crime area. The survey is based on a stratified probability sample, and the results, when appropriately weighted, thus generalize to total policing effort in the United States.

The courts, like the police, also gather and record much information on weapons use in crime, and these data thus represent an additional possible source of research material. This is especially likely to be true now that a standardized information management system (called Prosecutor's Management Information System, or PROMIS) has been developed and installed in a large and increasing number of District Attorneys' offices all over the United States. The third part of the project thus involved an assessment of the utility of the PROMIS data for research on weapons and crime.

To this end, PROMIS data from the Los Angeles Superior Court were obtained and analyzed. The original design called for analysis of PROMIS data from several (up to five) sites, but for various reasons, this proved impossible and, in the end, only the Los Angeles data were acquired.

The Los Angeles data record information on nearly 80,000 felony cases processed through the court in 1977 and 1978. There is detailed information present in the data on each case, including prior criminal record of the offender, characteristics of the victim, information about witnesses, and so on. There is, in addition, one variable that denotes whether a gun or other weapon was possessed at the time of the offense. It is therefore possible to use these data to estimate the proportional usage of weaponry in various categories of crime and to assess the effects of weapons usage on case disposition (for example, dismissal, referral to a lower court, sentence severity, etc.).

In general, none of the three sources of data employed in this project (the published literature, data from the police, and PROMIS data) are as useful or as complete as would be desirable. Much of the published research is methodologically flawed or of uncertain generalizability, and there are many important topics that have scarcely been researched at all. Weapons data from the police, while potentially of great use, are sometimes not kept in a form that would facilitate information retrieval and analysis, and there is considerable variance from department to department in the nature and completeness of the data that are recorded. Finally, the PROMIS data, while easily transferred and analyzed (the PROMIS data are fully computerized), contain very limited weapons information (recording only that a weapon was used, but no information about its type, whether it was fired, brandished, or merely possessed, and so on) and allow one to research only a highly restricted range of topics — ones, moreover, that are not among the more pressing or critical. The major conclusion of our efforts is thus that the information cupboard, while not entirely bare, is certainly not well-stocked or amply supplied.

One important implication of this conclusion is that existing knowledge about weapons, crime, and the relationships between them is, in general, not adequate as a basis for policy formulation. Even the most basic descriptive questions — for example, the actual number of firearms in private hands, or the crime reduction effects, if any, of weapons measures enacted in the past — remain essentially unanswered to any useful degree of precision. Thus, the weapons and crime area is one, among many, where important policy decisions are being made in what amounts to an information vacuum. In order to enhance most effectively the information base upon which sensible and appropriate weapons and crime measures might be erected, two closely related questions must be posed: What information do we need in order to formulate effective policy? And how is that necessary information best obtained? Our thoughts along these lines are contained in the final product of the project, the research agenda we propose for future study of weapons and crime issues.

III. The Literature Review

Private Weapons Ownership: Extent and Trends

Our review of the literature on weapons, crime, and violence begins with an assessment of what is currently known about the existing stock of private armament among the US population. In general, two methods have been used to estimate the total firearms supply: compilations of production and import data, and estimates generated from national surveys containing a weapons ownership question. Although much is made in the literature of the apparent "disparity" in the ensuing estimates, reconsideration of the assumptions that go into each, and the appropriate recalculations, show that both methods tend to converge on common values. In 1968, we estimate, there were roughly 80 ± 20 million guns in private hands, and in 1978, roughly 120 ± 20 million guns. In both years, handguns account for about 25-30% of the total weaponry, and shoulder weapons for the remainder. Thus, the total number of weapons in private hands has sharply increased over the past decade(s), by an estimated 40 million guns. Further, the growth in handguns appears to have been disproportionately high.

What accounts for this increase? One often overlooked factor in the "domestic arms buildup" is the simple matter of growth in the number of US households. In 1968, there were about 60 million US households, and in 1978, about 75 million — a 25% increase over ten years. (The growth in households was much sharper than the growth of population owing, mainly, to maturation to household formation age of post-war "baby boom" generations.) In order to maintain a constant average density of weapons ownership across families, then, a direct implication is that the total firearms supply would also have had to increase by 25% over the decade, just to keep pace with the growth in the number of households. Since the existing 1968 supply is estimated at 80 million firearms, a 25% increase would amount to (.25) x (80 million) = 20 million "new" firearms necessary to supply the weapons demand of 15 million "new" families; and this amounts to approximately one-half of the net projected growth of 40 million guns. Net of household increase, then, there remain approximately 20 million "new" guns to be accounted for by other factors. Further data and calculations suggest that about 10 million of these are handguns and the remaining 10 million are rifles and shotguns.

Some fraction of the remaining weapons excess must be attributed to enhanced sport and recreational demand for firearms, since the various shooting sports have grown considerably in appeal over the past years (as have all other forms of outdoor recreation). Data on sport and recreational weapons use are extremely thin and spotty. Inferences based on the annual number of hunting licenses issued, however, suggest a net increase of about 5.4 million "new" hunters between 1968 and 1978, and a further increase of perhaps 1.8 million other sports shooters, and these estimates give a net growth in sport and recreational demand amounting to some 7.2 million people with a "legitimate" need for firearms. (All the above estimates are based on growth over and beyond that expected just on the basis of population growth.)

Discounting the net remaining "new" weapons for this source of new demand requires an estimate of the rate at which "new" hunters and sports shooters arm themselves. If they each acquired one and only one firearm, the net demand growth would thus be for some 7.2 million guns, or roughly a third of the net remaining excess weapons. If, on the other hand, they arm themselves at the average rate for US families possessing at least one firearm (the best estimate of this average is 3.17 firearms per weapons-owning family), then the growth in sport and recreational demand would amount to about 22.8 million weapons, or 100% of the net remaining excess. Plausible compromise values imply a net sport and recreational demand growth that accounts for all (or nearly all) of the remaining excess shoulder weapons and perhaps a third to a half of the net excess handguns.

The preceading estimates attribute roughly 5 million new handguns to growth in sport and recreational demand for weapons in the decade 1968 to 1978, and this thus contradicts the common claim that handguns have "no legitimate sport or recreational use." In point of fact, no credible study of sport and recreational handgun use has ever been conducted, and the few fragments of evidence that do exist strongly suggest that handguns are as likely to be owned for sport and recreation as for any other reason.

Factoring out the weapons increases attributable to growth in the number of households and growth in sport and recreational demand therefore leaves no more than about 5-8 million handguns to be ascribed to other factors.

Another possibly large source of enhanced demand is growth in the police demand for armament. Strictly speaking, police arms are not "civilian" arms, but there are two important reasons to factor police arms out of the trends. First, the existing supply side estimates exclude weapons manufactured for the military, but not weapons shipped to Federal, state, or local police; thus, the police demand for arms is reflected in the supply-side trend data. Secondly, in contrast to a common assumption, many policemen supply their own sidearms (for example, 17 of the 50 largest departments in the United States do not provide sidearms for their officers, and outside the largest fifty, the fraction must be considerably higher), and thus, much of the police demand for arms is satisfied through the private firearms market.

Evidence from several sources shows a large increase in the total number of armed public servants over the period 1968-1978, and there has apparently been a parallel increase in private security forces. In addition, there is some evidence to suggest considerable police department experimentation with new small arms policies in the past decade. Both the personnel trend and the arms policy trend would tend to increase police consumption of firearms by a sizable amount. Our analyses suggest that police demand for new arms accounts for perhaps 2-3 million of the remaining handguns and some unknown number of shoulder weapons. This leaves no more than about 5 million handguns to be accounted for by other factors.

The most commonly offered explanation for the private arms buildup is that it has resulted from increasing "fear of crime, violence, and civil disorder" (Newton and Zimring, 1969). There are several compelling reasons to doubt whether this source of demand for firearms was at all substantial during the decade:

(i) Once the other factors discussed above have been taken into account, there are few or no remaining excess weapons to be explained by other factors, such as fear of crime and violence. If the estimates cited above are plausible, the overall "fear" demand does not amount to more than a few (perhaps five) million handguns.

(ii) Available studies, summarized below, show that about three-quarters of all weapons are owned mainly for sport and recreation, and about one-quarter for protection and self-defense. Assuming these proportions hold over the time series as well as in the cross-section, then the demand for protective weapons would amount to roughly a quarter of the twenty million firearms remaining once household increase has been factored out, and this approach also gives a "fear" demand in the range of a few millions.

(iii) National surveys have asked a gun ownership question periodically since 1959 (Wright and Marston, 1975). The proportion of US families claiming to possess a firearm has been about constant, at roughly 50%, but the fractional ownership of handguns among families owning any weapon has increased. An analysis of this increase shows it to have been concentrated mainly in middle-sized cities, whereas the increases in fear of crime and violence have largely been big-city phenemena (e.g., Stinchcombe et al., 1980).

(iv) Point (iii) further implies that most of the net remaining handguns have been purchased by families already possessing one or more firearms. (If the increase in handguns was due to handgun purchases among families otherwise owning no weapons, then one would expect the proportion of families owning any gun to increase, which it has not.) To be sure, these handgun purchases may well have been motivated by fear of crime and violence, but they would, in this case, be handguns added to an existing firearms stock, that is, weapons purchased by families that have routinely owned firearms and who are thus, or so one presumes, familiar and comfortable with them (as opposed to first-time purchases by previously unarmed families).

(v) Finally, several studies have inquired directly into "fear and loathing" as a source of the recent arms trend, and few of them demonstrate any decisive or substantial "fear and loathing" effect. For example, one study (Northwood, Westgard, and Barb, 1978) analyzed permits to carry a concealed weapon in Seattle and reports that less than 20% of the applicants "claim prior victimization as a reason." The same study showed that there was no relationship between crime rates and permit applications across Census tracts. Similarly, a study of Illinois counties (Bordua and Lizotte, 1979) found that no measure of the county crime rate was significantly related to the number of Firearms Owner's Identification Cards for males or minors. (There was some apparent effect on womens' ownership, however.) Clotfelter's (1977) time-series analysis of handgun demand can also be mentioned; this study found that rates of violent crime had no significant effect on handgun demand.

We conclude [illegible] there is little empirical support for the idea that the recent domestic arms buildup has been in reaction to fears of crime, violence, or civil disorder. At the outside, this source of demand amounts to perhaps five million handguns overall and is thus a minor factor in the overall weapons trend.

Characteristics and Motives of Firearms Owners

All available evidence on characteristics of private weapons owners confirms that most private weaponry is owned primarily for sport and recreational uses. In the total, sport and recreational guns apparently outnumber protection guns by about 3 to 1. Even among handgun owners, sport and recreation are mentioned as primary ownership reasons at least as often as protection or self-defense. (See, for example, Lizotte and Bordua, 1980; or DMI, 1978.) Weapons ownership varies sharply by region and city size, being higher in the South and West than in other regions, and is sharply higher in rural than in urban places. Contrary to a common speculation, gun ownership also increases with social status (Wright and Marston, 1975). Also, Protestants are sharply more likely to own a gun than either Catholics or Jews; and men are, of course, much more likely to own a gun than women, although women's ownership appears to be increasing.

There is substantial evidence that early parental socialization is an important factor in weapons ownership among adults, especially sport and recreational ownership. In all relevant studies, whether one's father owned a gun is the single best predictor of whether respondent owns a gun.

One study (Lizotte and Bordua, 1980) allows for a direct differentiation between sport and defensive weapons owners and suggests that these are qualitatively different types. Sport ownership is largely a function of early socialization into a "sporting gun culture," as suggested above. Gun ownership for protection, however, is entirely different; in this study, the only significant predictor of defensive ownership was the violent crime rate in the county of residence. (Concerning the implication of this finding for our previous conclusion about the effects of "fear" on the overall trend, it must be recalled that only a fourth of the respondents in this study were classified as "defensive owners." Further, while "county violent crime" was the only significant, and therefore best, predictor of defensive ownership, the magnitude of this effect was relatively small.)

Private Weapons Ownership and Violent Crime

What relationships, if any, exist between the incidence of private weaponry and rates of violent crime? Three hypotheses have been offered in this connection: that private gun ownership is an effect of (or reaction to) criminal violence; that private gun ownership is a cause of criminal violence; and that private weapons ownership is a deterrent to criminal violence.

The first of these has been considered above. Certainly, at least some private weapons are possessed in reaction to crime or the fear of crime, but the analyses summarized above suggest that the relative fraction is small. Most firearms (roughly three-quarters of the total) are owned for entirely different reasons. If there is any noteworthy relationship of this general sort, it is clearly a more complicated matter than simply, "get victimized, buy a gun." In fact, most relevant studies in the literature show no significant relationship between criminal victimization and gun ownership.

Although there is much speculation, surprisingly little research has been done on firearms as a cause of criminal violence. Most studies depend on gross comparisons of crime and weapons ownership rates across large and heterogeneous geographical aggregates (nations, regions, states, or counties) that differ in far too many (typically uncontrolled) ways for much of substance to be concluded from the results. Truly decisive evidence — for example, evidence on the ensuing criminality of persons who acquire firearms — does not exist. We conclude that there is little evidence to show that gun ownership among the population as a whole is, per se, an important cause of criminal violence.

Whether private firearms are an important deterrent to crime is likewise uncertain. It is clear that much crime occurs in circumstances where the victim's ownership of a gun would be irrelevant, for example, burglaries of unoccupied residences, but this says nothing about the effectiveness of weaponry as a deterrent in situations where the crime is potentially deterrable, for example, burglaries of armed and occupied residences. There is some evidence (Kleck, 1979) that the risk to a robber or burglar of being shot by the intended victim is about the same as the risk of being apprehended, convicted, and imprisoned (both probabilities are on the order of 1-2%). It is thus plausible that some crime is "deterred" because those who would otherwise commit it fear the possibility of being shot, just as it is plausible that the fear of doing time for one's offense also deters some crime.

Evidence on the uses of firearms by victims in crimes that are potentially deterrable suggests that the probability of a "successful" victimization goes down, but the probability of injury or death to the victim goes up, if one uses a gun (or other physical means of resistance) in protection (e.g., Cook, 1976).

As noted above, roughly 25% of the total private armament (and 40-50% of the handguns) are owned primarily for protection or self-defense.

Survey evidence for 1978 shows that some 15% of the population (or members of their households) have used a gun in self-defense at some time, of which about half was in defense against animals. Also, about 7% of the nation's adults say they carry handguns with them for protection outside the home. The proportion of US adults who have actually fired a gun in self-defense appears to lie somewhere between 2 and 6%.

The Magnitude of the Crime and Violence Problem

How much crime and violence are there in the society? Uniform Crime Report (UCR) data for the index crimes of homicide, robbery, and aggravated assault all show the same general pattern: namely, fairly sharp increases from about 1960 up through the early seventies, a peak in the rates occurring about 1974, and approximate stability in the years since (through 1978). Between 1960 and 1978, the homicide rate increased from about 5 to 9 homicides per 100,000 population. The percentage of homicides committed with firearms also increased from 53% to 63%. Of the homicides committed with firearms, approximately three-quarters involve handguns.

The number of robberies also increased roughly four-fold over the two decades. Of the total, somewhere between three-fifths and two-thirds are armed robberies. Among the armed robberies specifically, about 60-65% involve a firearm, and the remainder are committed with knives or other weaponry. There appears to have been some increase in the percentage of robberies committed with a firearm. The trend in aggravated assault is similar, having increased approximately three-fold from 1960 to 1978. Proportionally, only a few aggravated assaults are committed with firearms, although this percentage has also apparently risen.

The trend in the suicide rate is also up, although not so sharply. In 1960, there were about 20,000 suicides from all causes, and in 1977, about 30,000. The percentage of suicides committed with firearms also appears to have increased.

As regards fatal firearms accidents, their proportional contribution to total accidental deaths has hovered right around 2% for as long as data have been gathered, with some indication of a modest decline in this proportion over the past several years. Data on non-fatal firearms injuries are highly unreliable, since some (possibly large) fraction of them are presumably never brought to the attention of any cognizant agency, and as a result, published estimates of the annual number of such injuries vary widely. The best data are contained in the annual National Health Survey, and this source suggests about 170 ± 75 thousand injuries due to firearms accidents in calendar year 1975.

Taking all sources of firearms deaths for the reference year of 1975,[2] we conclude that something on the order of 30,000 deaths occurred as a result of the criminal, accidental, and suicidal uses of firearms. We further estimate, for the same year, that there were approximately 900,000 additional "incidents" where firearms were either present, brandished, or fired in criminal incidents, or where firearms were involved in injury-producing accidents, or where firearms were used in attempted suicides, or where firearms were involved in citizen-police encounters. We thus estimate an annual total of roughly one million "gun incidents" — i.e., incidents where a firearm of some sort was involved in some kind of violent or criminal incident (whether intentional or accidental, whether fatal or not).[3]

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[2] We have chosen 1975 as the reference year in these (and certain other) analyses because it is the most recent year for which complete data of high reliability are available. There is some evidence, however, that 1975 represented something of a "high point" (if that is an appropriate term in context) for weapons violence in the United States, and as such, the data summarized here for 1975 may well be misleadingly high as a guess about average levels of weapons violence in a "typical" year.

Characteristics of Gun Offenders and Victims

What are the characteristics of the perpetrators and victims of these one million annual "incidents?" Young males are by far the most likely victims of accidental firearms violence: among males aged 15 to 24, firearms accidents are the third leading cause of accidental death (after automobile accidents and drowning). Males are also substantially more likely than females to commit suicide with a gun. For firearms crimes, young non-white males are by far the largest offender category. Crimes against property are especially concentrated in the younger age groups, crime against the person (that is, "violent" crimes) less so. Non-whites are greatly over-represented among all categories of offense, but more so for "violent" crimes than for property crimes.

With the exception of homicide and some categories of assault, most criminal incidents involve persons unknown to each other before the event. Robbery is especially likely to involve strangers, assault less so. Interestingly, women are much more likely than men to be assaulted by people they know.

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[3] This summary figure — one million annual incidents — is offered as a "best guess" about the approximate order of magnitude of the problem of gun violence in the United States, where "gun violence" is construed very inclusively. It is assuredly not an estimate of the number of chargeable gun crimes committed in a typical year. The general consensus on this latter figure is that there are about 300,000 reported gun-related violent crimes annually.

The probability of being victimized by crime varies by sociodemographic characteristics. The highest probabilities are for young males, and the lowest, for elderly women. The probability of suffering injury likewise varies. Again, young males are the highest risk group. Finally, the probability of suffering property loss is also conditioned by social characteristics. The poor are about twice as likely to suffer a property-loss victimization as the more affluent.

The Weapons Used in Crime

What kinds of firearms are used in violent crime? Remarkably, there are no nationally representative data on the topic, with the partial exception of homicide. Evidence from several sources confirms that the handgun is the preferred firearm in most crimes involving firearms (e.g., Brill, 1977). The literature suggests that some 260,000 firearms were confiscated by state and local police in 1971, and of these, about 70% were handguns. Other studies show similar percentages. Thus, handguns predominate among crime guns, whereas shoulder weapons are by far the more common firearm among the larger population. Also, in all studies reporting evidence on the matter, some 70-75% of all crime handguns have barrel lengths of 3 inches or less. Concealability, therefore, is evidently an important factor.

Handguns confiscated and traced are often found to have crossed state lines before having been used in a criminal incident. This flow across jurisdictional lines of firearms into criminal hands tends strongly to vitiate the effects of jurisdiction-specific gun control measures.

Stolen handguns apparently contribute substantially to the supply of crime firearms. Based on 1975 statistics and a few assumptions, we estimate that some 275,000 handguns potentially enter criminal channels each year merely through the theft of guns from private residences. Several studies also confirm that crime guns tend to be "young." About one-half of all handguns confiscated during crimes have been manufactured in the previous five years (Zimring, 1976).

It is a widely held view that much homicide, and criminal violence in general, does not result so much from lethal intent as it does from escalations of otherwise relatively petty quarrels that become lethal or injurious simply because firearms are available. Again, the available research is highly inconclusive. The evidence is firm that attacks with a gun lead to the death of the victim some 2 to 6 times more often than attacks with knives (Zimring, 1968). This might imply that guns are intrinsically more lethal or that people who are intent on bringing death to their victim preferentially choose firearms as the means. Nothing in the literature on homicide allows one to choose definitively between these possibilities. Indeed, much of the evidence commonly cited on this matter turns out, on closer inspection, not to bear on the question of intent, one way or the other.

Analysis of weapons use in armed robberies tends also to show that robberies committed with firearms are more likely to lead to the death of the victim than robberies committed through other means (Cook, 1976). Since it is plausible to assume that the underlying motive in all robberies is the same (economic gain to the offender), the robbery evidence is thus the strongest in the literature showing that a gun is intrinsically more lethal than other weapons, net of possible differences in underlying motive.

Weapons and Their Control

Evidence from two recent national surveys on public opinion about gun control, and from many previous surveys, shows that large majorities of the public favor measures that would require the registration or licensing of firearms. The public would not favor such measures if their costs were inordinately high, and there is considerable sentiment that any such measure would only be effective were it uniform across all the states. Equally large majorities oppose an outright ban on private handgun ownership, although there is a majority sentiment favoring a ban on manufacture and sale of cheap, low-quality handguns. Majorities approaching 90% believe they have a constitutional right to own a gun; but majorities also agree that a licensing requirement for handgun ownership would not violate their rights. Although there is a high level of support for registration or licensing measures, no more than about half the population feels that these measures would cause crime to decrease; many measures other than firearms regulations are thought to be more effective towards this end.

The existing firearms control measures in the United States encompass a vast congeries of Federal, state, and local regulations, many of them working at cross-purposes with others. Jurisdictions with extremely restrictive gun control policies often abut jurisdictions with barely any controls at all. This fact, plus the substantial interstate commerce in "crime guns" noted above, make it plain that gun control measures in a single jurisdiction will have no direct or necessary implication for the availability of firearms for illicit criminal purposes in that same jurisdiction.

There is a substantial research literature evaluating the effects of weapons control legislation on violent crime. This literature falls into three broad categories: (i) studies that compare crime rates across jurisdictions (typically, cities or states) with variable weapons control legislation in force; (ii) "process" studies that examine the actual implementation of various gun control measures; and (iii) time-series or before-after studies that follow trends in crime before and after the introduction of new legislative measures.

Studies of the first type (e.g., Geisel, _et al_., 1969; Murray, 1975) depend critically on the ability of the analyst to model the underlying causes of the crime phenomena in question; this is simply because jurisdictions differ in large numbers of ways, other than in gun control measures on the books, that might plausibly affect crime rates.[4] Conclusions about the impact of firearms controls are thus valid only to the extent that these "extraneous" factors are identified and held constant in the analysis. And since there is, as yet, no firm theory of crime and how it is produced, none of the studies of this type can be said to provide conclusive evidence, either way, on whether or how firearms controls influence crime rates.

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[4] Persons unfamiliar with the methodology of the social sciences sometimes do not adequately appreciate the nature of this point. For example, it seems perfectly straightforward that a comparison of the crime rate in a jurisdiction with very restrictive weapons policies to the crime rate in a jurisdiction with very loose policies is an adequate measure of the crime-reduction effects of the more restrictive policy. This, however, is not the case. Suppose, for example, that the jurisdiction with the more restrictive policy also had a lower level of poverty. We know from other research that the poverty level of a jurisdiction is strongly related to its crime rate. In this case, we might well find less crime in the jurisdiction with the more restrictive policy — _not_, however, because of the restrictive

"Process" studies have generally been more informative in that they often point out major gaps between legislation-as-enacted and legislation-as-implemented. Indifferent or hostile implementation of even the most aggressive and well-considered measures will necessarily mitigate legislative effects. Zimring's (1975) analysis of the implementation of the Gun Control Act of 1968, and Beha's (1977) study of the implementation of the Massachusetts Bartley-Fox Amendment, are both excellent examples.

In the absence of any opportunities to conduct genuine randomized experiments, perhaps the best hope of uncovering the possible crime-reductive effects of weapons control legislation lies in so-called quasi-experimental, or time series, research designs, and some research of this sort has been done on various weapons control measures (e.g., Deutsch and Alt, 1977). The general logic of such research is straight-

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policy, but rather because of its lower poverty level. In short, in this example, we mistake a poverty effect for a weapons-policy effect.

Jurisdictions, of course, differ in all manner of ways other than their poverty levels or extant weapons legislation; many of the ways in which they differ might, like poverty, be a cause of crime. In order to be certain that we are seeing a weapons-policy effect when we compare crime rates across jurisdictions, we must therefore control statistically all the other factors that might be producing the crime rate difference. But we can only hold these "other factors" constant if we know what they are, which in turn means that research of this general sort can only be informative with respect to the effects of weapons legislation on crime if it is based on an adequate theory or "model" of the crime phenomenon being investigated.

forward: some criterion variable (e.g., the violent crime rate) is followed over some extended time period that spans the introduction of a new measure; deflections of the trend line after enactment of this new measure are then taken to indicate the measure's effect.

In principle, "before-after" designs of this sort are very powerful techniques for detecting causal effects. In practice, the potential of these designs has seldom been fully achieved. Crude comparisons of crime rates at two time points (one before, the second after enactment) are, of course, of little or no value, since these comparisons, typically, tell us very little about what we might have expected had the measure not been enacted. Likewise, the timing of post-enactment observations can be critical: the analyst must allow "enough" time for the effects of the measure to show up, but not so much that these effects become diluted beyond the point of detectability. One final problem is similar to the one noted above in the case of cross-sectional studies: in order to take post-enactment deflections of the trend line as a measure of program impact, one must ordinarily be able to say with some degree of confidence what would have happened to the trend line had the measure in question not been enacted, which means that the variables that govern the underlying behavior of the time series have to be discovered and modeled ("held constant") if the impact analysis is to have meaning. So here too, the absence of an empirically sound theory of crime and how it is produced tends to render the "before-after" literature equally inconclusive.

The best example of problems of the sort just noted concerns the several efforts to evaluate the crime-reductive effects of the

Massachusetts Bartley-Fox law. Using a time-series design with monthly observations for roughly ten years, Deutsch and Alt (1977) conclude that the law significantly reduced armed robberies and gun assaults (but not homicide). Hay and McCleary (1979) have questioned the appropriateness of the underlying theoretical assumptions of the Deutsch-Alt time-series model; a respecification of the model and reanalysis of the data failed to reproduce the armed robbery effect. (The effect on gun assault was equally apparent in both analyses.) Thus, depending on certain highly technical assumptions that have almost nothing to do with either guns or crime, but rather with the appropriate statistical model for the analysis of time-series data, one can conclude either that Bartley-Fox reduced the incidence of armed robbery in Boston, or that the bill had no discernible effect on armed robbery in Boston. Which of these is the correct conclusion is yet to be determined.

Summary

The extant literature on weapons, crime, and violence in the United States is extremely inconclusive: some areas have scarcely been researched at all, others have been researched in detail, but the combination of haphazard research designs and small-scale local samples has produced such an array of inconsistency in the published results that nothing of substance can be concluded. Even the most basic descriptive questions, for example, the number of firearms presently in civilian hands, can only be answered to an approximate order of magnitude. Further, the ideological overtones of much of the published research in the area are such as to inspire little confidence in the scientific credibility of the results.

In the best of all possible worlds, one would expect a codified set of principles and body of knowledge to emerge as the final product of a review of the sort just summarized. Obviously, given the relatively primitive state of the literature, any such codification would definitely be premature. In the present case, the final product was instead an agenda for future research in the weapons and crime area. This Research Agenda appears as the final chapter in the report on the literature review, but given its importance in the project as a whole, a brief summary of the Agenda is provided at the end of this report.

IV. The Police Department Survey

Local law enforcement agencies represent an important potential source of information on weapons and crime. The police deal directly with criminal incidents, with persons accused of crimes, with victims of crime and, in many areas, are given the responsibility of administering local weapons regulations. The records generated, maintained and archived by them in their ordinary duties might, therefore, contain the raw ingredients for useful, informative and relatively accurate statistics on firearms and crime. Our survey of the US police was designed to inquire whether this is, in fact, the case. Thus, the purpose of the survey was to investigate whether existing police records would be efficient sources of detailed information about weapons and crime.

The survey centers around two main issues. First, what weapons information are the local police routinely collecting in their current case reports? Secondly, how willing and able would police departments be to process such information into a useful, national-level reporting system?

The survey was based on a sample of 609 local law enforcement agencies, drawn with probabilities proportionate to the size of the department. The survey was a mailout/mailback; nonetheless, a response rate in excess of 70% was attained. Among other topics, we asked respondents to specify what they actually do in the areas of weapons records, report writing and other police procedures concerning weapons, and what more they might be willing to do, if asked, to collect additional information or to prepare specialized reports of their information. Thus, the results speak to the sensibility of a data strategy that would rely heavily on the weapons information in local departmental case reports and on the cooperation of the local police to systematically prepare summary reports.

Results show that local departments are not, on the average, eager to cooperate with additional summary report requests. However, they do not report much resentment against future such requests. Willingness to comply with additional information requests is, in part, a function of the perception of the local police of the seriousness of the weapons and crime problem and police involvement with weapons regulation.

Our survey verifies that the local police see the problem of weapons and crime as a substantial part of their local crime problem, and the more serious they think the problem is, the more willing they are to cooperate with information requests. Seriousness is related to both region and size of department. Departments in the Northeast and North Central regions see less of a problem than do departments in the West and South, and, as expected, larger departments report a more serious problem than smaller departments.

Willingness to provide additional weapons information is also a function of the number of weapons regulations which the local police administer. The more weapons regulations performed by the local police, the more willing they are, on the average, to provide more summary information.

Most jurisdictions have weapons regulations on the books, and local departments are often involved in their administration. In particular, the local police are most likely to administer any required handgun regulations and to perform any required investigations for firearms permits. Overall, however, the involvement of the local police in weapons regulations is fairly low; on the average, the police perform 3.8 of the 15 weapons regulations specified in our questionnaire. The other regulations are either not in force in the jurisdiction or are administered by some other agency.

The survey analysis shows that many departments are currently recording details about weapons which could provide useful research data. Our survey asked the departments to specify the types of weapon information recorded in the case report in ten different situations where a weapon was involved. We expected that the type of information recorded might vary by situation. However, by their own account, the local police record most of the weapon information in the case report, regardless of situation. The type of firearm, serial number, manufacturer, caliber, prior firearms record of the suspect, and whether the firearm was loaded or fired are recorded in the case report by nearly all local departments. The only two categories of information which are not usually recorded are the value and the age of the firearm. Thus, according to respondents, the individual case reports within local departments provide a potential wealth of detailed information on firearms used in crime.

If this is true, then the problem becomes one of information retrieval. Is the weapons information recorded as part of a narrative account of the crime or incident, or is there a separate section or question with categories where weapons information is recorded? Our analysis of the standard report forms (incident, complaint, arrest, and property forms) actually used by local departments shows that most local departments use forms which facilitate the recording of and retrieval of weapons information to some extent.

Close to half the local departments in our survey use an incident report form with an open space or area labeled "WEAPON." Another third use an incident report form with a special box, code or category that explicitly requests weapon detail. On the report forms that request details, the type of weapon and type of firearm are most likely to be the information requested. Other information (such as caliber, serial number, age) is requested on only half of the incident report forms. An analysis of the standard property report forms shows a similar distribution.

Thus, we find that useful, detailed weapons information is being recorded by local police and that this information is, for many of the departments, fairly easy to retrieve. It should be noted that, when asked to specify the changes that would be necessary to provide additional summary information about weapons, the most frequent answer is "New forms, or changes in existing forms." This type of change could easily be made, presumably with a small cost.

In addition to recording detailed weapons information, the local police in our survey report that other procedures are also standard when a weapon is involved in a case. All local departments report that a stolen gun is reported to the National Crime Information Center (NCIC) system and 83% report that a stolen gun would also be reported to a regional or local weapons tracing system. We find that 86% of the local police departments have their own NCIC terminal, with the remaining departments having access to NCIC through another agency. Almost all departments report that every firearm implicated in a crime or found, confiscated or recovered is checked with NCIC. Overall, three-quarters of the local departments rate their experience with NCIC as usually useful. The reported use of the Bureau of Alcohol, Tobacco, and Firearms (BATF) weapons tracing system, in contrast, is very low. Over half of the departments report that firearms are very seldom checked or never checked with BATF, whether involved in a crime situation or found, lost or recovered. Of the departments that reported some use of BATF, only a third rated their experience as useful.

Current summary reporting done by local departments appears to be mainly that required by the Uniform Crime Reports. These reports are filed monthly and annually by local departments and provide some limited amount of weapons information: number of homicides by type of weapon and type of firearm, number of robberies and assaults by type of weapon, and number of arrests for illegal possession and other weapons crimes. However, we also know that additional and much more detailed weapons information is often recorded in the individual case reports. Are the local police currently preparing additional report summaries with more detailed information about weapons? The results suggest not. For example, only about a third prepare summary reports on the number of firearms stolen and on the number of firearms confiscated annually. The local departments that do not prepare summary reports on weapons-related topics indicated, on the average, that the preparation of such reports would be neither easy nor difficult.

The amount of trouble caused by current report summary preparation significantly affects the department's willingness to prepare additional reports. Some local departments (about a quarter to one third) report that report preparation is very burdensome. A similar proportion report that current reports are no trouble at all. The latter are by far the more willing to prepare additional reports.

The level of computerization within the local police departments is one indication of the department's summary reporting capability To the extent that the arrest and crime reports are computerized, additional report summaries should be easier to obtain. We find that the trend of computer use by local police has continued. Three-quarters of the local departments have computerized departmental records; in particular, the level of computerized arrest and crime report records is quite high. Forty percent of the departments that use a computer report that they have their own separate computer installation. A separate computer installation within the department is negatively related to the amount of trouble caused by report preparation. This variable is also significantly and positively related to willingness to prepare additional report summaries.

When asked about any changes that would be necessary within their department (such as record-keeping systems, personnel and budget) in order to comply with requests for more detailed weapons information summaries, four out of five report that some amount of change would be necessary. Specifically, changes in existing case report forms would have to be made or new forms introduced. Over half of the departments report that additional funds would have to be sought and special training of personnel conducted.

Our analysis thus shows that the use of existing police records to gather more detailed information about weapons and crime is feasible and potentially fruitful. Many departments currently use report forms which request more weapons information than is found in existing aggregate summary reports, such as the UCR reports. Respondents in local departments are concerned about weapons and crime, and there is some willingness to provide additional information. However, it would probably be necessary to provide some incentives (financial support, computer software, model report forms) to the local police departments to ease the increased burden of reporting. An expansion of the weapons data requested from the police for Uniform Crime Reports, or the addition of a special Weapons Report (similar to the existing "Supplemental Homicide Report"), could prove to be the most efficient method for gathering additional weapons information from the local police. The use of an existing data collection system such as UCR would probably be less costly and better utilized than the establishment of a new organization to gather weapons and crime information.

V. Data from the Los Angeles Superior Court

The acquisition and analysis of Prosecutor's Management Information System (PROMIS) data from Los Angeles were intended to serve two purposes: substantively, to replicate and extend the analysis by Cook and Nagin (1979) of the effects of weapons use on felony case disposition; and procedurally, to assess the general utility of the PROMIS data for subsequent research on issues of weapons and crime.

Concerning the first of these, our analysis assumes that a large number of variables affect case outcomes at each stage, among them the nature and seriousness of the charge, the strength of the evidence, characteristics of the offender, the case load being managed by the prosecutor at the time, the "convictability" of the case, and so on. A unique feature of the PROMIS data is that it contains enough information to allow one to model these various factors and to hold them constant in the analysis. Thus, the estimates of weapons effects are estimates net of these many, potentially confounding, factors.

The major shortcoming of the PROMIS data for research purposes is that the weapon variable is relatively crude. There is, in fact, one and only one weapon variable in the data, with each case scored into one of the following four categories: gun used, other weapon used, no weapon used, or unknown. For the sample of 5,000 felony charges upon which the analysis is based, the distribution on this variable was as follows:

Weapon at Time of Offense

Gun	13.9%
Other weapon	9.8
No weapon	60.4
Unknown	15.9
	100.0%
	(N = 5,000)

Notice that roughly a sixth of the total have missing data on the weapons variable. Notice further that the data base does not contain many other potentially relevant items about weapons use that might be important in ascertaining the effect of the weapon on case disposition: for example, whether the weapon was fired during the incident, only brandished, or was merely being possessed by the offender at the time; or information on the caliber or type of the weapon; and so on. Given that this information is not available in the data, the analysis is necessarily rather crude.

It is important to emphasize that all the cases considered in the analysis are felony cases. Most of the weapons use represented in the data is weapons use in the context of committing some other crime; illegal possession or use of firearms charges are rare in the data, constituting only 1.9% of the total offenses. Since the seriousness of the offense is among the variables held constant in our statistical models, we have not attempted to analyze each major crime category separately.

Findings of the analysis, stage by stage, are as follows. First, we find a statistically significant and positive effect for gun use at the stage of initial screening by the Los Angeles District Attorney. That is, holding other relevant variables constant, the probability that the case will be accepted at initial screening is higher if the case involves a gun than if no weapon was used. The effect for "other weapon" on initial screening, however, was insignificant.

Once a case passes through initial screening, it goes to a preliminary hearing, and here, too, we find a positive and statistically significant gun effect. The probability of a case being accepted at the preliminary hearing is notably higher if a gun was used than if no weapon was used. And here, too, the effect for "other weapon" was not significant.

Once the case clears preliminary hearings, it is presented for felony arraignment in Los Angeles Superior Court. At arraignment, the case may be dismissed, or the defendant may plead guilty, or the case may be sent to trial. We find that the probability of a dismissal at the arraignment stage is not significantly affected by either gun use or the use of any other weapon; all estimated coefficients are trivially small in magnitude and not statistically different from zero.

How does weapon use influence whether the case is resolved by guilty plea or continuance to trial at the arraignment stage? We find, at this stage, that gun offenders are less likely to plead guilty than offenders using no weapons at all, regardless of the seriousness of the charges and other offender characteristics.

Thus, in the Los Angeles case, gun offenders (but not other weapons offenders) are more likely to pass through initial screening to a preliminary hearing, more likely to pass from a preliminary hearing to formal arraignment, and more likely to pass from formal arraignment into trial. How are trial outcomes themselves affected by the presence of a weapon in the crime?

Trial outcomes, of course, are of two sorts: first, the finding as to guilt or innocence, and then for the guilty, the sentence received for the crime. Concerning the first, we find no significant gun or other weapon effect.

Felons are judged guilty either by plea or finding; once judged guilty, they may receive a prison or jail sentence or some other sentence not involving prison (i.e., a suspended sentence, or a sentence to probation rather than prison, etc.). Among felons either pleading or found guilty, the probability of a prison sentence (of any length) is very much higher if a weapon is involved in the crime than if not. Further, for those found guilty and sentenced to prison, the gun effect is again substantial: all else equal, the use of a gun by felons found guilty and sentenced to prison or jail increases the average sentence by about 600 days. The effect is also substantial for felons who plead guilty and are sentenced, amounting to some 450 extra days.

For both guilty pleas and guilty findings, then, it is apparent that substantially stiffer prison sentences are meted out to gun offenders than to offenders using no weapons, even with other potentially relevant factors held constant.

These findings make it clear that the court system in Los Angeles pays considerable attention to the uses of guns in felony offenses: gun offenders are more likely than non-gun offenders to pass through the various filters of the system, are more likely to be incarcerated, and receive, on the average, substantially longer prison terms. All these findings are similar to those reported by Cook and Nagin (1979).

Concerning the more general utility of PROMIS for research on weapons and crime issues, we note the following caveats:

(i) The weapons information currently called for in the PROMIS system is better than nothing, but only slightly so. The data record only whether a gun, other weapon, or no weapon was present in the crime and do not record many other potentially interesting or crucial weapons variables. The research utility of PROMIS data in this area would thus be greatly enhanced were a more detailed question sequence on weapons use added to the information system.

(ii) At present, the accessibility of PROMIS for research is essentially at the discretion of the District Attorney in each jurisdiction. The Los Angeles DA office was extremely helpful and willing to cooperate, but other sites that we approached were not. Gathering up PROMIS data for more than a small handful of sites might therefore be a formidable problem.

(iii) Although PROMIS has now been installed in several dozen jurisdictions, these jurisdictions are widely dispersed across the country, and there is no centralized repository of PROMIS data that would facilitate research access.

(iv) In all jurisdictions, the PROMIS data base is massive. The LA data contain more than 80,000 felony cases in just over a one-year period. Moreover, the data files contain variable-length records and considerable amounts of alphabetic (vs. numerical) information. For these and certain other reasons, the data are rather cumbersome and expensive to analyze, and the purely mechanical problems of the analysis multiply as the number of jurisdictions in the analysis increases. A comparative analysis along the lines discussed above for a relatively large number of jurisdictions (say, ten or more) would be an immensely complicated and expensive undertaking.

(v) Finally, even assuming all the above problems could be solved, PROMIS data allow one to research only a very limited set of topics: basically, they give rough distribution of weapons use over crime types, and they allow one to assess the effects of weapons use on case disposition. Each of these is, to be sure, an important topic, but even if both were eventually answered in fine-grained detail, we would still not know much about a large number of other issues that are critical to policy formation in the weapons and crime area.

VI. A Recommended Agenda for Future Weapons Research

Building an information base in any area of public policy requires some attention to three closely related questions: First, What is the nature of the problem at hand and what options for dealing with it are open to us? This first question, in short, concerns the characteristics and magnitude of the problem and the range of open, viable policy alternatives. Assuming a range of possible actions can be imagined, then the second question becomes, What information do we need in order to choose intelligently among the many options open to us? Once we are clear on the information we need to choose among options, then we may turn to the third question, How do we best obtain the information we need?

At the present moment in American political history, there is little or no consensus even on the first of these, much less the second or the third. There is some generalized recognition and agreement that we have a serious "violent crime" problem, but what can or should be done about the problem are matters of much disagreement and political dispute. Some favor additional restrictions on the ownership and use of firearms; some even favor that certain classes of firearms be banned altogether. Others believe, not without justification, that laws of any sort tend to affect only the law-abiding, and that the criminal uses of firearms would therefore be largely untouched by additional weapons regulations. In the same vein, some believe that the widespread availability and ownership of firearms are important causes of criminal violence, whereas the same phenomena are, for others, important crime deterrents. Some believe that general restrictions on private weapons ownership would tend to reduce the available supply of firearms for criminal purposes; others anticipate only that a black market in illegal weaponry would spring up to service the criminal demand. Some feel that the solution to firearms abuse is to keep guns out of the hands of potential abusers; others, that the solution is to mete out stiff and certain punishments once an abuse has occurred. Thus, while there is some consensus that the United States faces a very definite "violent crime" problem, the exact nature and magnitude of that problem, its causes, and the means with which it is most effectively and judiciously handled, are matters of fearsome political dispute.

Given the nature of these disputes, it is apparent that no agenda for research, even if followed diligently and funded generously, will be decisive on the question of what the nation should do about violent crime. Answers to such questions depend more on philosophy and values than on matters of scientific fact. On the other hand, policy issues can be informed by high-quality research, even if seldom decided by it. The intent of the Research Agenda is thus far more descriptive than prescriptive; its aim is to narrow the wide band of misinformation and simple lack of empirical knowledge that tend to surround all the major issues involved in firearms and crime, but assuredly not to show that the nation should go this way or that in dealing with its violent crime problem.

In one way or another, every piece of weapons-and-crime legislation ever enacted or proposed is meant to intervene in some way in the weapons market. As all other markets, the weapons market consists of three major components: supply, distribution, and demand. In the case of the weapons market (and many others), demand can be further differentiated into licit and illicit components.

All policy initiatives in this area can be seen as interventions in one or more of these aspects of the firearms market. The Gun Control Act of 1968, for example, intervenes in the supply by banning the importation of certain classes of weapons, intervenes in the distribution system by requiring Federal licensure of firearms dealers, and intervenes in the demand by outlawing weapons purchases among certain classes of persons (e.g., felons). Even measures such as mandatory sentencing can be construed as an intervention in demand, since the intent of such measures is to raise the cost of using a weapon in the commission of crime (and thus, to lower the criminal "demand").

Given the points just made, it is clear that every conceivable weapons-and-crime policy suggestion would be informed by a sound empirical understanding of the various parts of the firearms market, and the bulk of the proposed Research Agenda is directed towards that end. The proposed researches are intended to fill the gaps in four major areas. First, we propose that research be undertaken to provide an accurate and valid description of the current stock of firearms held by individuals and households, that is, of the characteristics of legitimate firearms demand. Secondly, we are concerned to develop a better understanding of how firearms are circulated, starting with their manufacture or importation to their eventual removal from the stock of privately held firearms, with special attention paid to how the firearms used in crimes of various sorts are acquired and disposed of. Thirdly, we propose that some effort be given to the development of theoretical models of firearms usage in crime. In this connection we suggest that microeconomic models of the decision to engage in crime be examined to see how the use of firearms fits into the structure of anticipated benefits and costs (the "expected utilities") associated with crime choices. Finally, since it seems certain that jurisdictions will continue to experiment with legislative measures to regulate in some way the possession, use, manufacture, or distribution of firearms, or change penalties associated with the criminal use of firearms, several alternative strategies for appropriate monitoring of the implementation of such laws and assessing their effects on gun-related crimes are described.

Measuring the Stock of Firearms Held Privately: A National Household Survey

There is a considerable ambiguity about the size, distribution, and condition of the stock of firearms held by private individuals and households. We thus propose that the National Institute of Justice fund a large-scale national household survey centering around the following topics:

1. An Inventory of Household and Individual Possession and Ownership of Firearms, including firearm type, age, condition, and purchase cost.
2. Purposes for Each Firearm and Frequencies of Use.
3. Acquisition and Disposition of Firearms.
4. Handling and Storage of Firearms: Where kept? How often maintained? Inventory of ammunition? Firearm loaded or unloaded in storage?

5. Lifetime Experiences with Firearms: Has household always had firearms? First experiences with firearms and types of socialization (e.g., military, hunting, target shooting, etc.).

Since considerable skepticism has frequently been expressed about the validity of responses to such surveys, some preparatory technical research ought to be undertaken to test out the validity of responses of critical groups of respondents. For example, special studies of registered owners ought to be undertaken in states with gun registration laws (e.g., Massachusetts), to see whether known and verified gun owners are willing to identify themselves in survey interviews.

The utility of a national firearms survey of the sort proposed here, of course, is not so much that it would bear directly on the potential effects or advisability of one or another policy option, but that it would provide useful, and presently nonexistent, descriptive evidence on the nature, condition, and patterns of use of the nation's private firearms stock.

Describing the Firearms Distribution System

The privately held stock of weapons is replenished and increased by transfers from dealers, and ultimately from manufacturers or from other stocks (e.g., military weapons). Properly to understand the total system of weapons distribution, it is necessary to undertake some special studies of particularly important segments of the system, as follows:

(1) Manufacturers and Importers

One important source of new entries into the total stock of firearms in the United States is the output of manufacturers and the transactions of importers. Since this source consists of a relatively small number of corporate entities who are monitored by Federal agencies, the obtaining of detailed data from them on numbers, types, calibers, prices, and other qualitative features of firearms in their inventories and sold by them should be possible.

(2) Dealers' Transactions

Since there are from 150,000 to 200,000 dealers licensed under the 1968 Gun Control Act, collection of complete data on acquisitions and sales from such sources will likely be expensive and fraught with data quality problems. Since dealers are required to keep records of transactions and to make such records available to ATF, basic data likely exist. Because of the large numbers, it seems sensible to undertake a sampling of dealers and their transactions. Undoubtedly, as in other businesses, considerable size discrepancies exist among dealers with some small proportion of dealers making up bulk of total transactions; hence a sampling strategy in which dealers are sampled with probability proportionate to their business volumes would be efficient.

(3) Transfers from Military, Police and Corporate Stocks to Household Stocks

A potentially important source of replenishment for the privately held stock of firearms is the transfer of surplus, outmoded, or inappropriate firearms from the stocks held by the military, police forces, and by corporate bodies (including government agencies as well as corporations). Given the attention to police armament by firearms manufacturers, we can expect that the turnover of police firearms may be an important (if minor) source of additions to the private stock each year.

(4) Special Studies of Transfers into Criminal Possession

Critical to many of the issues in the controversies over weapons and crime policy is a good understanding of how firearms are obtained by persons who commit crimes, that is, the characteristics of the illicit firearms demand. The main source of information about weapons used in connection with crimes is from weapons that are detained or confiscated by the police. We recommend that such studies be continued and enlarged, drawing possibly on data from our police survey about which departments maintain the best records for these purposes. Especially critical would be attempts to obtain information about how and at what period firearms were acquired from the persons from whom the weapons were confiscated.

An alternative to the use of police records to study illicit firearms demand is direct data collection from weapons offenders, or in short, an "offender's survey." A prototype for research of this sort exists in a study by Burr (1977) of weapons felons in the Florida jails. Burr's data are seriously hampered because they generalize only to a single jurisdiction; a replication based on offenders from several jurisdictions (ideally, jurisdictions with variable weapons regulations in force) would be far more informative.

Developing a Differentiated Crime Classification System

The crime classification systems currently in use are based essentially on the criminal codes of our federal government and the fifty states. Despite periodic overhaulings, these criminal codes have been built by accretion with more recently recognized criminal acts added into existing categories. As a consequence, some categories are so gross that they hide within the same rubric acts that are decidedly distinct when looked at behaviorally. For example, an "assault" may vary from an attempted murder to a rough shove, the persons involved may be intimately connected or strangers and be of the same or different sex, the incident might involve a firearm or just the open palm of a hand, and so on. To classify all of these as "assaults" is to obscure essential differences among assaultive acts. In other cases, categories may be so specific that few acts are ever recorded as falling within that classification; for example, the California Criminal Code contains "theft of an avocado" as a distinct crime.

One consequence of the current classification system is to obscure the nature of crime and the use of weaponry in crime. Evidence shows that "violent crime" has risen over the past two decades, but the specific kinds of violence reflected in this trend are not known in any precise sense. While some progress has been made in the development of crime seriousness measures, these overall metrics are difficult to apply to specific events because such measures are often tied to the existing criminal classification system.

We propose that the National Institute of Justice fund attempts to develop a more differentiated criminal classification system that is feasible to use in the field by police and crime investigators and that provides more information on the nature of the criminal acts that have been either reported to the police or observed by them. The purpose of such a crime classification system is not to replace the existing criminal code, but to supplement it by providing richer, multi-dimensional descriptions of criminal acts.

For example, one potentially fruitful direction is to develop a standard set of checklist questions, to be filled in by persons recording an alleged crime, that would provide information on whether and how a weapon was used, on the place where the crime was committed, on the relationship between perpetrator and victim, and so on. At present, the recording of such details is highly variable from one jurisdiction to the next. Obviously, not all questions would pertain to all acts recognized as crimes in criminal codes, but any such device would be useful in providing some critical differentiation among the specific acts that are currently being dumped into such omnibus categories as "theft," "burglary," and "assault." This in turn should help crime researchers to understand more clearly what are trends in crime and to provide policy makers with something more than gross trend data supplemented with dramatic case descriptions.

Mutual Effects of Gun Ownership and Crime

Gun ownership in the United States is claimed to be at least partially influenced by individuals' desires to protect themselves against crime. Some observers have noted that this pattern of arming may have the effect of motivating criminals to arm themselves and to carry arms while committing crimes in which weapons are not intrinsically necessary (e.g., burglary). Others claim that widespread possession of firearms makes it easier for criminals to obtain arms through theft. On the other side, there are claims that widespread gun ownership reduces some types of crimes because criminals are not willing to risk encountering an armed potential victim.

To cast some definitive light from hard evidence on this issue would require time-series data on both crime and weapons ownership that are virtually impossible to obtain. But, it would be worthwhile encouraging researchers to investigate the utility of gun licensing information in states that have had licensing laws over a sufficient period of time, and to relate any trends therein to the crime rates. Especially useful would be licensing data that can be related to smaller areas within states and that are generated by a system that requires frequent renewals. More feasible, if less definitive, are cross sectional studies which would relate crime rates for political jurisdictions to patterns of gun possession within those areas, assuming good local-area data on gun ownership can be obtained.

The Effects of Gun Control Legislation

It can be anticipated that some states and some local jurisdictions will change their gun control legislation over the next decade. For example, several states have begun to experiment with "mandatory sentencing" policies. These changes present an opportunity to study the effects of gun control legislation on crime rates through interrupted time-series analyses, as in the excellent attempts to study the impact of the Bartley-Fox amendment in Massachusetts. We recommend that similar research be undertaken whenever significant policy changes occur. We further recommend special attention to the implementation and enforcement of any new measures. Accumulation of evidence of high plausibility from several state and local jurisdictions will begin to provide knowledge on what kinds of gun control legislation work with what kinds of jurisdictions and with what effects on which types of crime.

Theoretical Models of the Use of Firearms in Crime

While the use of weapons in crime appears superficially to be so transparently obvious that there may be no good reason to investigate this topic further, more thoughtful consideration suggests that this topic may be of utmost importance. It is clear that policies designed to affect gun-related crimes are based on models of why and how guns are used in crime and more careful thought to such models, as well as empirical tests, may allow for the formulation of more effective policies.

First of all, while many commentators upon weapons and crime distinguish roughly between assaults, homicides and economically motivated crimes, it is not at all clear that the patterns of firearms use connected with those crimes are different. A model which states that crimes will be committed with guns if guns are accessible is often an extrapolation from the self-evident truth that if there were no guns available, no crimes would be committed with them. It is also a model which implies that whether or not a weapon is used is not so much a matter of calculated costs and benefits as one of convenience. A gun assault in a bar arising out of an altercation occurs only because the assailant carries guns; a street robbery involving a gun also arises out of gun carrying. Note that this model leads to a strategy which attempts to lower the possession or carrying of guns, and is perhaps the basic view underlying the Bartley-Fox amendment in Massachusetts.

Secondly, careful attention has not been given to the anticipated costs and benefits of using weapons in crime, especially those crimes that would appear to have more of a rational basis. Here the issue is, say, why would a burglar carry a gun? The structure of anticipated costs and benefits include considerations of the following sort: How much is the anticipated gain from the crime affected by the use of a gun? How much is the risk of apprehension lowered by the carrying of a weapon? Will armed robbers be more successful at escaping from the scene of a crime than those who use strong-arm methods? Finally, does the possession of a gun and its use (or threat of use) in a crime increase the expected punishment if apprehended?

These issues cannot be settled easily. The best we can recommend at this point is that the National Institute fund basic research that attempts to model the commission of gun crimes. Some attention ought to be paid to the problem of differentiating among types of crime, especially those involving injuries to persons and those from which some economic gain can be reaped. Secondly, models should be constructed which attempt to conceptualize the costs and benefits to be derived from the use of weapons on a variety of types of crime.

VII. Recommendations

Although we stated in the Foreword that we do not intend to make recommendations to policy makers or criminal justice agencies about weapons and crime policy, we do have recommendations that deal with policy on a somewhat more specific research level and whose adoption, we believe, would strengthen our understanding of the role of firearms in crime. The recommendations primarily concern the data generated at various points in the criminal justice systems and how it could be improved.

Policy Recommendations for Police Departments

Local police departments constitute the ultimate source of data on the use of firearms in the commission of crimes. As our survey of police departments reveals, most departments record highly differentiated data on weapons, but because this information is not collected in a uniform way nor stored in an easily retrievable form, it is not currently available either for operational or research purposes. We recommend that police departments establish uniform data recording procedures for every crime reported to the police that would establish the presence or absence of weapons at the commission of a crime, whether the weapon was used, how used, type of weapon, and disposition of the weapon. All such information is currently collected by most police departments but often stored in the body of a narrative report from which it is difficult to retrieve any specific items of information. Checklists incorporated into current reports that lend themselves easily to conversion into machine readable records are the obvious implementation of this recommendation.

Policy Recommendations for Court Systems

Although the fairly widespread adoption of the PROMIS system (and similar machine readable court data systems) has made it possible to develop a better understanding of how the courts process arrests, the data systems are still somewhat insensitive to issues arising around the role of weapons in crime. As noted earlier, the Los Angeles system enters into each arrest record whether or not a weapon was present in the offense upon which the arrest was based. Since this information in turn is transferred from the arrest records filed by the Los Angeles police, it can be no better nor more revealing than the data forwarded by the arresting authorities. Hence, the PROMIS system's crudity reflects in part the problems in police department data bases referred to above. But, to the extent that more specific data are available in arrest charges, the PROMIS data base certainly should reflect it. Furthermore, given the sensitivity that court processing shows to the use of a weapon (as our analyses reveal), arrest processing might also be facilitated by more specific and richer data on the presence of weapons (especially firearms) and their use in specific ways in the commission of crimes.

We thus recommend that the PROMIS data systems be modified to record at least the following information: First, the data should differentiate between the mere possession of a weapon and its use in an act resulting in an arrest charge. Secondly, more specific information should be obtained about the weapons themselves, i.e., whether long gun or handgun, and perhaps even more detail on caliber, barrel length, and other weapons characteristics. Thirdly, the results of weapons checks through the BATF or NCIC systems should also be entered in the PROMIS data base. Fourth, PROMIS should note any special "enhancements" being carried with the main charge; for example, sentencing enhancements due to previous convictions on the same charge, or enhancements due to weapons use. Finally, the charge with which the weapon is associated ought also to be entered. At the present time there is no way to connect the weapons information on the file with the specific charge (or charges) with which the weapons presence is associated.

Policy Recommendations for Congress and State Legislatures

Our recommendations to legislative bodies do not take the form of guidance about which, if any, laws ought to be passed, as we have no expertise in this topic. Our recommendations, rather, concern steps that should be taken before any measure is enacted, no matter what its specific form or content. And our recommendations in this regard can be quickly summarized: First, be explicit about the underlying assumptions upon which the proposed measures are based; and secondly, to the extent possible, be sure these assumptions are plausible in light of current evidence and research.

Any attempt to control crime through controlling firearms is based on assumptions and presuppositions about how weapons are acquired, distributed, and used. At present, knowledge about these topics is highly limited, although it is transparently obvious that the existing distribution system is quite complex and multi-faceted, and thus, that simple-minded interventions in the system are readily circumvented. For example, controls achieved by regulations of commercial gun dealers can be easily bypassed by relying on the more informal "swaps" or barter market in firearms, which is extensive. In like fashion, the 1968 Gun Control Act ban on cheap, foreign-made handguns was circumvented by importing unrestricted parts and assembling them into firearms domestically.

Common-sense definitions are often difficult or impossible to translate into specific policy guidelines or are noxious to implement in practice. For example, many current policy proposals are to the effect of limiting or banning outright so-called Saturday Nite Specials. Such proposals overlook that "Saturday Nite Special" is almost impossible to define with sufficient clarity that the definition is useful for policy purposes (Cook, 1979). Such proposals are also based on two additional assumptions that have not been adequately researched: (i) that the Saturday Nite Special is the preferred firearm for criminal purposes (it is still an open question whether the proportion of SNS's among "crime guns" is any different than the proportion among legitimate handguns owned by the population at large); and (ii) that in the absence of SNS's, that is, lacking access to cheap low-caliber handguns, criminals would "drop down" to some less lethal weapon, for example, a knife. Nothing in the existing literature, however, rules out the possibility that they would "go up" to substantially more lethal weapons, for example, to higher-quality, higher-caliber handguns, instead, in which case the overall effect might well be a sharp increase in the death resulting from criminal violence.

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Other policies either currently in force or recently proposed seek to forbid the sale of firearms to certain classes of persons. If these "classes" cannot be easily defined, then such measures provide only rhetorical security at best. For example, a ban on sales to "the mentally ill" supposes that there is an agreed-upon definition of mental illness, which there is not. Further, even if there were, the "mental illness" of applicants to purchase weapons could only be reliably ascertained at an awesome social expense; for example, through extensive, detailed psychological testing of each applicant. There may be very good reasons to keep firearms out of the hands of the mentally ill, but if "mental illness" cannot be precisely defined and cheaply and routinely detected, then the possibilities of actually implementing such a ban are extremely limited, and enactment in the face of such difficulties only invites widespread abuse and discretionary or inequitable enforcement.

For good and obvious reasons, policy makers are concerned to develop "interventions" that somehow influence the criminal market for firearms but do not infringe on the rights of legitimate firearms owners. Again, this is a laudable goal, but it presupposes that these two parts of the market are sufficiently distinct that policy efforts can be focused, somehow, on the one but not the other. There is nothing in the literature suggesting this to be the case, with the exception that the proportion of handguns among "crime guns" is higher than the equivalent proportion among the general private firearms stock. Policy makers should thus be aware that any action taken to deny firearms to would-be criminals will necessarily deny them to a vastly larger group of persons who will never even contemplate, much less commit, a violent criminal act. This, of course, is not to argue that such actions should not be undertaken, which is an entirely separate matter. It is to argue that infringements on access to guns by legitimate firearms consumers is one, among many, costs of a firearms regulation policy, and one which must, therefore, be weighed against the anticipated benefits before a rational policy decision can be made.

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Weapons, Crime, and Violence in America

A Literature Review and Research Agenda

James D. Wright
Peter H. Rossi
Kathleen Daly
Eleanor Weber-Burdin

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CHAPTER SEVEN

ON CRIME AND PRIVATE WEAPONS

It is often remarked that the United States is among the most heavily armed private populations in the Western world, and further, that the rate of criminal (and accidental) violence is higher here than virtually anyplace else. The relationship between these two facts, if any, has been the object of much speculation and assertion, and of some empirical research. Such research as exists on the topic is reviewed in the present chapter.

In general, at least three distinct relationships between violent crime and the incidence of private weaponry have been hypothesized. First, it is possible that private weaponry is an important cause of criminal violence. This, for example, is the theme enunciated in a chapter title from the Newton-Zimring (1969) report: "More Firearms, More Firearms Violence." The underlying idea is that as there are more firearms available, more crime comes to be committed with them. This view posits that much criminal violence is not intentional, but rather evolves in the "heat of the moment" and becomes criminal (assaultive, homicidal, etc.) only because the means of violence (firearms) are readily at hand. (On this, see Chapter Eleven, below.) In this view, then, criminal violence could be curbed — at least to some extent and for some important class of crimes — were the availability of private weaponry reduced.

Secondly, it is possible that private weaponry is an important effect of criminal violence. This theme was reviewed in some detail in Chapter Five, above, and indirectly in Chapter Six; here, the general idea is that persons arm themselves as a means of defense against crime, violence, and the related pathologies of modern life. The policy implication of this view is, of course, the obverse of the first view: namely, that the incidence of private weaponry could be reduced were criminal violence somehow curbed.

Note that while the first and second views lead to opposite policy implications, both have the same research implication, that is, some positive association between the incidence of private weaponry and the rate of criminal violence. The issue that separates them is which is cause and which effect.

Still a third possibility is that private weaponry is an important deterrent to criminal violence. As people arm themselves more and more heavily, their risk from criminal violence is correspondingly reduced. The research implication is, presumably, the reverse of that stated above; here the expectation would be, all else equal, crime is lowest where the incidence of private weaponry is highest.

It must be noted in advance that these are not mutually exclusive possibilities. Certainly, at least some crimes occur only because the means with which to commit them are available. Likewise, at least some people purchase weapons in response to criminal violence; as intimated in the previous chapter, this may be especially true of recent acquisitions of defense weapons among women. And finally, there is no doubt that at least some crimes at some times and some places are deterred because the potential victim is armed. The issue here, as elsewhere in this volume, concerns the relative proportionalities involved.

Further, all three hypothesized relationships could operate simultaneously. Crime, let us suppose, increases for whatever reason. As one response to this increase, the purchase of weapons for defensive reasons increases. The then-enhanced presence of private weaponry acts as a deterrent to some crimes (e.g., rape, burglary, robbery) but functions to increase the prevalence of other crimes (assault, homicide, firearms suicide). In this case, private weaponry would respond to some crimes, deter others, and cause still others, all at the same time.

Aside from the possibility that all three hypotheses could well be true simultaneously, there are other serious barriers to a decisive choice among them. Some are strictly logical. For example, it is self-evident that a deterred crime is a relatively undetected crime. This would be less true of crimes deterred "in process" (i.e., burglars frightened off by homeowners brandishing weapons) because, presumably, at least some such incidents would be reported to the police. But crimes that are never even attempted because of advance knowledge that the potential victim is armed (i.e., the burglary that does not occur because the homeowner is a well-known marksman) would never show up in any data source. And even if it could be shown that certain types of crimes were just as common in areas with a high density of private weaponry as in areas where this density is low, the argument might still be made that the rate of crime would nonetheless be higher yet in the heavily armed areas were the citizenry not quite so well armed. As is well known, the "deterrence" effect even of relatively direct criminal sanctions (e.g., sentencing) is notoriously difficult to estimate. Estimating the deterrence effects of private weaponry is certain to be more difficult still.

Other barriers are more methodological in character. First is the age-old problem of inferring cause from correlation. Even if it could be shown that violent crime was highest in areas where the private possession of weapons was highest, it would not be clear whether it was weaponry causing crime, or crime causing people to arm themselves in protection against it, or, of course, both.

It is also possible that such a relationship would be thoroughly spurious. To cite one possible example, crime tends to increase as economic conditions deteriorate. Following a theme noted in an earlier chapter, it is also likely that hunting for meat increases as economic conditions deteriorate. Extrapolating from these possibilities, one might expect both high rates of crime and high rates of weapons purchases to occur in economically depressed areas -- for example, the South. In this example, there would be a detectable correlation between crime and weaponry across region, but no causal relationship; rather, the correlation would be the spurious result of both variables being causally linked to underlying economic conditions.

One immediate implication of these points is that even demonstrable correlations between private weapons density and the crime rate over relatively large and heterogeneous geographical aggregates (e.g., nations, regions, states, even counties) are, in themselves, relatively noninformative with respect to the issues at concern in this chapter. Even if the imputation of cause in such data were not a problem (and, of course, it always is), such large aggregates are far too gross and differ in too many (typically uncontrolled) ways for such comparisons to have much meaning.

Consider the extreme, but not uncommon, case of international comparisons. Much is often made of such comparisons, as, for example, between the United States and the United Kindgom, or between the U.S. and other Western democracies. In general, the comparison consists of a simple note to the effect that there are more guns, and more gun violence, in the United States than somewhere else, and this is in turn taken as evidence that guns are a cause of crime and violence. There are at least two additional serious problems in taking these comparisons as evidence for a causal relationship between private weaponry and crime:

(i) Cases for comparison are chosen purposively and selectively; different choices lead to different conclusions. As Bruce-Biggs (1976) has noted, for example, the density of private weaponry (i.e., proportional weapons possession by households) is at least as high in Norway and Switzerland as it is in the United States, but rates of criminal violence are very low in both nations.[1] In sharp contrast to the U.S.-England or U.S.-Canadian comparisons, the comparison with these nations suggests that there is nothing intrinsic to a high rate of private weapons possession that increases criminal violence. One may thus come to entirely opposite conclusions depending solely on which other nation is contrasted with the United States.

(ii) In general, any two nations (or, for that matter, any two regions, states or counties) will differ in a large number of ways over and beyond differences in weapons ownership and in the local crime rate. Such differences may be historical, legal, cultural, or social, and are generally manifold and multifaceted, both in nature and in effects. Strictly speaking, all such factors that might themselves affect the incidence of crime would have to be held constant before the direct effects of private weaponry on crime could be legitimately detected. Stated more directly, there are many differences between, say, the U.S. and England that might be the (or, better, a) cause of the difference in crime rate. In the absence of controls for these other potential causative factors, the inference that the crime difference results from the differences in weapons ownership is gratuitous. To a greater or lesser extent, the same would be true of any two regions, states, counties, or other gross geographical aggregates.

The conclusion that flows from these purely methodological considerations is that zero-order comparisons of weapons ownership and crime over large geographical aggregates tell us little or nothing about the possible causal relationship between these two factors. Unfortunately, as the following review makes plain, this is the most common research design employed in this area of the literature.

In general, one's statistical ability to control many factors simultaneously increases with sample size; thus, legitimate causal inferences about private weaponry and crime are more readily made if the number of geographical aggregates being analyzed is relatively large. This would, for obvious reasons, tend to rule out regions of the country, and possibly even states, as useful units for such an analysis. In this vein, cities and counties are more likely and potentially more informative possibilities, and some city and county based studies have been undertaken, as reviewed below. Such studies have the further advantage that the units of analysis are smaller and more homogeneous; as a general rule, one's confidence in causal inference from ecological (that is, aggregative) correlation increases as the homogeneity of the underlying units increases.

However, using cities or counties as units in an analysis of the effects of private weaponry on crime encounters yet another formidable methodological problem, namely, getting reliable city-by-city or county-by-county estimates of the rate at which private weapons are possessed. Unlike crime data, which are routinely recorded for both city and county levels, there are no readily available data anywhere that show city- or county-level weapons ownership rates, least of all over large numbers of units. Further, the expense of generating such data for a large sample of cities or counties is insurmountably prohibitive. Comparative large-sample studies of cities or counties as units are therefore usually based on highly inferential and potentially quite unreliable estimates of across-unit differences in weapons ownership.

As previous comments suggest, most research that has looked at crime or violence as a function of private weapons ownership is based on aggregative data. One reason for this is that while, in absolute terms, there is "a lot" of criminal violence in the United States, there is, proportionally, very little. We note in Chapter Eight that there are about a million "serious gun incidents" per year (this calculated with the broadest possible definitions). In contrast, the total stock of private weaponry is on the order of 120 million guns. The proportion of gun offenders among private gun owners is therefore extremely low, and for this reason, few or no firearms offenders appear in population surveys of the average size.[2] For this and other reasons (for example, the possible reticence of respondents to report incidences of violent criminality among household members), the possibility of addressing the issue of private guns as a cause of criminal violence directly via population surveys appears to be quite limited, and this has in turn meant that virtually all relevant studies are aggregative in nature and based on comparisons of rates (rates of crime on the one hand, rates of private weaponry on the other, both calculated over some geographical aggregate). This poses one final problem worth discussing in advance of the literature review itself, namely the problem of "connecting" private weaponry with crime when there is no direct evidence on the connection.

To illustrate with an example from the literature, one noted in Chapter Six, the South has a higher rate of private weapons ownership than any other U.S. region; also, the homicide rate is higher in the South than elsewhere, and the proportion of homicides committed with firearms is also higher (e.g., Newton and Zimring, 1969: 75). Thus, one might conclude (as Newton and Zimring do), that "more guns" equal "more gun crime." But how firm is this connection? First, the distinctiveness of the South in private weapons ownership is far sharper for shoulder weapons than for handguns; in Newton and Zimring's data, handgun ownership was actually higher in the West and Midwest than in the South; and yet most homicides involving firearms are committed with handguns, and this is just about as true in the South as in other regions. It seems rather tenuous to attribute homicide to the disproportionate ownership of a class of weaponry that is seldom involved in homicide. Further, in the South as elsewhere, weapons ownership (of all types) is sharply higher in rural than in large urban areas, whereas criminal violence (in the South as elsewhere) in concentrated in the large cities. Again, it seems rather tenuous to link urban murders with the ownership of guns in small town and rural areas. But tenuous links of precisely these sorts are directly implied in the kinds of regional comparisons being discussed.

There is persuasive evidence in the literature that the Southern distinctiveness in homicidal violence results nearly exclusively from the higher level of impoverishment and generally lower socio-economic conditions that prevail in that region (Loftin and Hill, 1974). This is plausible since crime everywhere (more particularly, violent crime of the sort at issue here) is far higher among the economically marginal than among the stable middle class. The Southern distinctiveness in private weapons ownership, in contrast, is almost certainly a function of differential early socialization into gun use for sport and the readier accessibility in the South of areas where the sporting use of weapons is possible (see the previous chapter). To the extent that these two points are valid, then the correspondence of high weapons ownership and high criminal violence in the South relative to other regions is purely fortuitous and, in itself, says nothing about any possible causal relationship between private weaponry and crime.

I. Is Crime a Cause of Private Weaponry?

The role of crime and violence in spurring demand for private weaponry was considered in some detail in earlier chapters, and only a brief summary of relevant findings is necessary here. All available studies suggest that about three-quarters of private arms are owned for sport, recreational, or collecting reasons; the remainder are owned for self-defense. At least some defensive weapons ownership, especially in rural, isolated areas, would be for defense against animals rather than other people; evidence from the DMI survey suggests that perhaps as much as half of the defensive uses of weapons are against animals as opposed to people. Proportionally, then, private weapons owned primarily or exclusively for self-defense against other humans probably amount to not more than 10-20% of the total private arms stock. It is, of course, possible (although not logically necessary) that many or most of this 10-20% are possessed as a reaction either to crime or the fear of crime.

There is considerable evidence that the criminally victimized are not any more likely than the nonvictimized to possess a private weapon (Wright and Marston, 1975; Williams and McGrath, 1976; Lizotte and Bordua, 1980). In the Seattle "permit to carry" application data analyzed by Northwood and associates (1978), only about 1 applicant in 5 cited prior victimization as a reason for wanting a permit. Going out to purchase a defensive firearm after one has been criminally victimized is apparently not a very common behavior.

Further, there is some evidence that fear of crime is also not directly linked to weapons ownership (Wright and Marston, 1975; Lizotte and Bordua, 1980). In the same vein, the time-series analysis by Clotfelter (1977) of the recent national trend in handgun sales showed that the violent crime rate was not a significant factor. In the

Seattle data, census tract violent crime rates were uncorrelated with permit-to-carry applications; in the Illinois county-level data, no county crime rate measure was related to legal weapons ownership for either males or minors (Bordua and Lizotte, 1979).

On the other hand, Bordua and Lizotte (1979) do find a significant correlation between county crime rates and legal weapons ownership among women across Illinois counties. And in their individual level survey data for the state, they find that violent crime in the county is the only significant predictor of gun ownership for defense. Interestingly, in this survey, direct criminal victimization was not related to defensive weapons ownership, and neither was the respondent's stated fear of crime. Thus, it is not the criminally victimized whose weapons ownership contributes to the crime rate effect in these data, but rather non-victims living in the high-crime counties; further, it is not those most fearful of crime who are disproportionate defensive weapons owners. In general, these findings are similar to those reported by Wright and Marston (1975) from national data on gun ownership in the large cities and their suburbs. One possible scenario to explain this pattern of results is that some people living in areas of higher-than-average criminality (but not those actually victimized) get worried about their readiness to deal with a criminal attack, arm themselves with a defensive weapon as a consequence, and then, because they are armed, fear crime less. The absence of an effect for fear of crime, that is, may reflect only that the initially most fearful arm themselves and then feel psychologically safer because of it.

Why are the criminally victimized themselves not more likely to possess a gun? One possibility, perhaps remote, is that their guns are among the items taken in the victimization. In this connection, it is useful to recall the finding from Burr's (1977) analysis of private handguns in Florida, that about ten percent of the handguns ever disposed of by his respondents were lost through theft. Another possibility is that criminal victimization is concentrated among categories of people (for example, women) who have never been socialized to gun use, or among other categories (for example, the old) who doubt their ability to use a weapon efficaciously, or among other categories (for example, the poor) who are unable to afford the price. Still another possibility is that the criminally-victimized learn through direct, first-hand experience the futility of private weaponry as an effective crime deterrent, and thus do not bother to arm themselves, despite their victimization. Still other possible explanations could, of course, be suggested, but there is little or nothing in the published literature that would allow one to choose among them.

Thus, while there is at least some contrary evidence, the bulk of the available research suggests that crime, fear of crime, and related variables are in themselves not very important factors in most private weapons ownership. Most guns are owned for sport and recreation, and there is neither reason nor evidence to suggest crime as a factor in ownership of weapons of this type. At least some guns (and a substantial fraction of handguns, perhaps as many as 40-50%) are owned primarily for defense, and living in a high-crime area seems (at least in the one available study that differentiates between sport and defensive weapons) to be a significant factor in the ownership of weapons of this type. There is no evidence showing that the criminally victimized are more likely to own a gun, however, so the dynamics of the "crime and defensive weapons" equation are rather more complex than simply "get robbed, then buy a gun."

II. Is Private Weaponry a Cause of Crime?

> "There was a domestic fight. A gun was there. And then somebody was dead. If you have described one, you have described them all."

This quotation is from a televised interview with the Chief of the Homicide Section of the Chicago Police Department, was first cited in Newton and Zimring (1969: 43), and has since been widely cited throughout the literature as an epigrammatic, but nonetheless accurate, account of the etiology of much criminal violence. The essentials of the underlying theory of criminal violence are these: Much interpersonal violence in the society is not the result of premeditated intentionality on the part of the perpetrator, but rather arises in disputes, altercations, barroom fights, disagreements and fights between spouses, and other relatively minor and trivial circumstances. Such disputes arise in either of two conditions: either a gun is present, or it is not. In the second condition, the parties dispute, then come to their senses, and except for the heightened interpersonal animosity, little harm is typically done. In the first condition, the parties dispute, blast away, and then come to their senses, but by then someone is injured or dead, and what would have otherwise been a minor dispute has been transformed, merely by the availability of a firearm, into an aggravated assault or homicide. In this view, then, the privately possessed firearm is an important cause of criminal violence; it turns otherwise harmless disputes into violent criminal attacks.

Similar arguments are sometimes also made for robbery, rape, and a few other classes of crime. Here the theme is that firearms, especially handguns, give potential offenders the courage (and means) to do what they would otherwise not be capable of doing -- i.e., commiting their crime. In the absence of firearms, offenders would lack the psychic strength to engage in criminally violent acts.

A third argument in the same vein is that firearms themselves catalyze violent or aggressive tendencies, or in other words, that the presence of a gun pushes a potentially violent or aggressive person past the threshold between wanting to respond violently and actually responding in that fashion.

Thus, for these and a few other reasons, it is often argued that guns are themselves a cause of violent crime, that in the absence of guns much of what is now violent crime would be qualitatively different and, indeed, esentially benign, and therefore, if there were to be fewer guns in private hands, then less criminal violence would be committed.

Initially, there would seem to be a certain logic to these points of view. Certainly, the presence of a firearm is a necessary (if not sufficient) condition for its use as an instrument of criminal violence; in other words, if there were no guns at all, then, certainly, no crimes could ever be committed with them. Given the numbers of guns already available, however, and the evident impossibility of removing anything more than some fraction of them from potential criminal abuse, the more serious research question is whether some reduction in the incidence of private weaponry would be followed by some similar reduction in the incidence of criminal violence. Since the possibilities for experimental manipulation of the rates of private weapons ownership are limited or nonexistent, and further, since there have been few or no successful legislative efforts that have achieved this end (see Chapter 15, below), least of all recently, the only practical method with which to inquire about this issue is to see whether there is less violent crime in areas with fewer privately possessed weapons, and, of course, vice versa. But this design, in turn, is imperiled by the several inferential and methodological problems discussed in the opening section of this chapter. The implication, confirmed below, is that existing research is not definitive with respect to the question whether private weaponry is a cause of criminal violence.

As in many other areas of the literature, the first sustained empirical foray into these issues is due to Newton and Zimring (1969: Chapter 11). The chapter, "More Firearms -- More Firearms Violence," uses three approaches to assess the causal impact of private firearms on criminal violence. "All approaches," they say, "provide evidence that the arms buildup, if it is partly a response to increased violence, also has contributed to it" (1969: 69).

The first approach is a case study of arms and violence in Detroit. First, the data show (p. 70) a sharp increase in the number of handgun permits issued in Detroit from 1965 to 1969; in 1965, about 5,000 such permits were issued, and in 1968, nearly 18,000. (On the implications of this, see also Chapter 5, above.) The number of accidental firearms fatalities also increased during this same period, from 10 such fatalities in 1965 to 32 in 1968. Thus, "firearms accident rates increased markedly during this period of surging urban armament" (1969: 70).

There are several problems with this conclusion. First, the data on "surging urban armament" are for handgun permits issued, and are thus only an indirect indicator of the trend in handguns actually possessed. (There is apparently no evidence on the number of people who actually acquire a handgun once they have acquired a handgun permit. Presumably, the percentage is large, but must be something less than 100%.) The data on fatal firearms accidents, however, are for all accidents reported irrespective of weapons type. Thus, there is apparently no way to discern whether the noted increase in fatal accidents is a rise in fatal handgun accidents, as their argument implies, or in accidents involving shoulder weapons.

A further problem is that the permit evidence is for the city of Detroit, whereas the data on accidental deaths are for the whole Wayne County area (which includes Detroit and ten other relatively large communities). Whether the increase in accidental deaths and the handgun buildup were both concentrated in the same place therefore cannot be discerned from these data.

A final point is that while the conclusion is given in terms of an increasing firearms accident rate, the data are the absolute numbers of accidents occurring and are not converted to a rate. Presumably, the appropriate rate would in this case be the rate of fatal firearms accidents per handgun-owning household. Unfortunately, no one knows for sure how many Detroit households possessed a handgun in the early 1960's (Newton and Zimring do not report an estimate), but we can estimate the number on the basis of a few assumptions. The 1960 population of the city of Detroit (not the surrounding metropolitan area) was about 1,670,000 persons In the same year, there were, on average, 3.33 persons per household, which suggests roughly 502,000 Detroit households in 1960. Table 5-5 shows that among large non-Southern cities, the proportion of households owning a handgun was .077 in 1959. Simple multiplication thus gives an estimated 38,700 handgun-owning households in Detroit in 1960.

Suppose now that the number increased by 2,000 per year in the years from 1961 to 1964, such that by 1964, it stood at 46,700. According to Newton and Zimring, an additional 5,000 were added in 1965. (We are here assuming one permit per household.) The total in 1965 therefore stands at 51,700, and the ten accidental firearms deaths reported for 1965 therefore represent a rate of 10/51,700 = approximately 2 accidental firearms deaths per 10,000 handgun-owning households. By 1968, again according to Newton and Zimring, handgun-owning households were growing by about 18,000 a year. Although their graph makes it difficult to infer the precise numbers, let us assume that the 1966, 1967, and 1968 additions were 6,000, 12,000, and 18,000 respectively, consistent with the notion of a "surge." This brings the 1968 total to 87,700 handgun-owing households in 1968, which would, as an aside, still represent only 17.5% of all Detroit households, within the realm of plausibility. Under these assumptions, the firearms accidental death rate in 1968 would be 32/87,700 = approximately 4 accidental firearms deaths per 10,000 handgun-owning households. This is very definitely an increase over the rate estimated for

1965; in fact, it is twice the 1965 rate, which is in some sense a "marked" increase. What these numbers show, and that Newton and Zimring's numbers do not show, is that in both years, something in excess of 99.9% of all handgun-owning households did not experience a fatal firearms accident. These data are thus consistent with an argument that "new" handgun procurers in Detroit in the 1965-1968 era were somewhat less careful with their weapons than "old" handgun owners tended to be, but that well over 99.9% of all handgun-owners -- "new" and "old" -- were sufficiently careful not to have been involved in a fatal firearms accident.

"The increase in handgun sales is also reflected in trends in firearms suicides" (1969: 71). Again, there is reason for caution. Between 1965 and 1968, the total number of suicides in Wayne County actually declined, from 318 to 305 (see their Figure 11-3, p. 72), this despite the "surging urban armament" available for self-destruction. On the other hand, the humber of suicides committed with firearms (of all sorts) did increase from 84 to 113. Converted to rates using the figures estimated above, however, the 1965 rate is 84/51,700, or about 16 per 10,000 handgun households, and the 1968 rate is 113/87,700, or about 13 per 10,000 handgun households, or in other words, a slight decline. This suggests that the "new" handgun owners were actually somewhat less likely to kill themselves with their guns than "old" handgun owners had been.

"The most significant aftermath of the arms buildup in Detroit is its impact on crime" (1969: 72). A direct demonstration of this point would require one to show that the people applying for permits and actually purchasing handguns during the period were more likely to commit subsequent crimes (of whatever sort) than the people who did not. The data, of course, contain no such direct demonstration: the subsequent criminality, if any, among the people applying for handgun permits between 1965 and 1968 is simply unknown. So the case that the "arms buildup" was somehow directly linked to an increase in crime is at best inferential.

Data on homicide and aggravated assaults (Figure 11-4, p. 73) show a modest increase in attacks not involving firearms between 1965 and 1968, and a very much sharper increase in attacks with guns. The number of attacks with a gun in 1968 is slightly more than twice the number in 1965. But on the other hand, according to our earlier calculations, the number of handgun-owning households also increased in the period, by about 70%. Expressed as a rate, the increase is substantially less dramatic. The same is true of the evidence on armed robbery (1969: 74). Thus, of the various pieces of evidence presented on violent crimes in Detroit, the only one that shows a sharp and alarming increase in the rate per handgun household is homicide with firearms (Figure 11-6, p. 74), which increased from 55 in 1965 to 279 in 1968. The corresponding rates are 11 and 32 per 10,000. The number of these homicides committed with "new" handguns is, of course, unknown.

For a variety of reasons, nothing of substance can be concluded from these data (or these kinds of data) about the role of private firearms ownership in causing criminal violence. There is no evidence anywhere that the "new" criminals and the "new" handgun owners were in fact the same people, or even that the former were drawn disproportionately from among the latter. As noted in the introduction to this chapter, it is at least possible that some or all of the "surge" in handgun permits was a response to the increase in crime, not a cause of it, a theme which Newton and Zimring themselves argue. And certainly, other plausible explanations of the increase in crime may be adduced, explanations that have nothing to do directly with private handgun ownership -- for example the surge in black rage against their treatment by white society that accompanied the racial turmoil of 1967 and 1968. The conclusion, that the arms buildup in Detroit "contributed to increased violence," may well be correct, but it has not been demonstrated by these data.

Newton and Zimring's second approach to the issue involves comparisons between the proportional ownership of firearms and the percentage of gun use in homicide and aggravated assault across four U.S. regions (1969: 75). The impossibility of drawing a sound causal inference from such data has already been discussed.

The third approach involves comparisons across eight U.S. cities. (The investigators sought data on 14 cities, but useable data were acquired for only eight.) The comparison consists of proportions of crimes committed with guns over three categories of crime: homicide, robbery, and aggravated assault. The data show that cities with a high proportion of firearms involvement in any of the three crime types also have high proportions of firearms involvement in the other two types, with rank-order correlations ranging from .6 to .9. Unfortunately, there are no data in this comparison on city-by-city differences in private weapons ownership, and so the correlation between rates of gun ownership and the proportional involvement of guns in these crimes across the eight cities cannot be computed. In general, cities showing the highest proportional gun involvement in crime are in the South and West (Atlanta, Houston, and St. Louis are the "top three" in all three crime types), regions where private weapons ownership is also disproportionally high. But clearly, there is nothing in these data that suggests a direct causal link between weapons ownership city-by-city and rates of criminal violence city-by-city or rates at which firearms are used in violent crime city-by-city. It is possible that the city differences in proportional weapons involvement in crime reflect local judicial, prosecutorial, or sentencing practices, not the (possible, but undemonstrated) differences in private weapons ownership.

In sum, the evidence assembled in the Newton-Zimring report is inconclusive on the issue whether private firearms are directly and causally linked to violent crime. To be sure, this hypothesis is consistent with the evidence, but neither confirmed nor denied by it. Truly definitive evidence, such as evidence on the subsequent criminality of "new" handgun purchasers of the era, simply does not exist. These points notwithstanding, the Newton-Zimring chapter is often cited in the ensuing literature as the proof that guns cause crime.[3]

Newton and Zimring are not the only investigators to have researched this question, but they are among the relatively few. "Although there has been much popular discussion, surprisingly little serious empirical research has studied directly the impact of levels of gun ownership on rates of violent crime" (Kleck, 1979: 887).

The subsequent research, as with Newton and Zimring, is also consistently inconclusive on the issue. Two of the more commonly cited studies (Seitz, 1972; and Fisher, 1976) actually do not contain a direct measure of firearms ownership, although both claim to offer evidence that firearms ownership per se increases criminal violence (specifically, homicide).

Murray (1975) has examined the relationship between five measures of "firearms violence" (firearms robberies, fatal firearms accidents, aggravated assault with a firearm, and suicide and homicide by firearm) and proportional handgun ownership across the fifty states and concludes that "it seems quite unlikely that the relative availability of handguns plays a significant part in explaining why some states have higher rates of acts of violence associated with firearms than others" (1975: 91). However, this study does not contain state-by-state estimates of handgun ownership; rather, it is based on regional rates over four gross regions, with all states in the same region receiving the same "per cent owning a handgun" score, and so this is an extremely crude and therefore uninformative test of the hypothesis.

There are two time-series analyses in the literature claiming to show a positive association between homicide and gun ownership (Phillips and Votey, 1976; Kleck, 1979), even with certain other relevant variables controlled. Kleck concludes, "gun ownership, whether measured as total guns or handguns [per capita], has a significant positive effect on the homicide rate" (1979: 900); and in a later passage, "coefficients estimating the effect of the homicide rate on either total gun ownership or handgun ownership are in the predicted direction." Thus, Kleck claims to have found a reciprocal causal relationship between gun ownership and homicide: "crime is a cause of gun ownership just as gun ownership is a cause of crime" (1979: 908). But again there are some problems. For example, the effect on homicide for total guns (handguns and long guns combined) was somewhat stronger than the effect for handguns only. Since homicide is about four to five times more likely to be committed with a handgun than with a shoulder weapon, one would naturally expect the handgun variable to show the stronger effect. There are also some problems with the firearms measures (they are based on production and importation data; see Chapter Two, above), all amply acknowledged by Kleck (1979: 895-896). And finally, since all measures in this study are for the U.S. as a whole, there is no direct evidence to show that the gun increases and the homicide increases occured in the same area(s) of the country. The argument that "crime causes guns" would, of course, not require that the gun buildup and the homicide buildup be concentrated in the same area, since, to cite an example, people in Peoria might well purchase a weapon as a reaction to crime in Chicago. But the weapons owned in Peoria could scarcely be the cause of criminal violence in Chicago, and so the reciprocal argument, that "guns cause crime," does require that the gun and crime buildups be concentrated in the same places.

Obviously, production and importation data for the nation as a whole cannot be used to estimate area-by-area variability in weapons possession. Thus, the only existing evidence on city-size and regional variations in the "domestic arms buildup" is that contained in the survey evidence analyzed above in Chapter Five. And that analysis, although necessarily rather crude given the nature of the data available, does not suggest a very close correspondence between the crime and handgun buildups: the increasing proportional ownership of handguns was concentrated mainly in middle-sized cities with populations in the range of 10-250 thousand (i.e., in the Peorias), whereas the increase over the past decades in criminal violence has been concentrated mainly in the largest urban areas (i.e., the Chicagos).

In this vein, it is relevant to cite once again Bordua and Lizotte's (1979) analysis of crime and weapons ownership across Illinois counties. Their evidence "implies that where the rate of legal firearms ownership is high, the crime rate is low," and thus, "it is implausible to assume that legal firearms ownership increases crime" (p. 159). The explanation is apparently simple: in Illinois as elsewhere, gun ownership is predominantly rural, whereas violent crime is predominantly urban.

The most recent, sophisticated, and persuasive analysis of these topics is due to Cook (1979), who has estimated the relationship between "gun density" and various indicators of the robbery rate over 50 large American cities. As with prior researchers, Cook again has no direct measure of city-by-city variance in gun density, but he constructs an apparently acceptable proxy measure by using the proportion of suicides and homicides committed with firearms. To demonstrate the validity of this indicator, data from the 50 cities are aggregated over geographical region, and the ensuing estimates of regional gun density are compared to the estimates generated from the NORC General Social Surveys. The comparison, although not perfect, is reasonably close, and Cook rightly suggests that these gun density indicators might therefore have wide applicability in other research situations.

Substantive findings are relatively straightforward: the indicator of gun density was unrelated to the overall robbery rate across fifty cities, but was significantly related to the fraction of robberies committed with guns (1979: Tables 6 and 7), and thus, to the gun-robbery rate. The indicator was also related to the rate of robbery homicides. The apparent interpretation is thus that guns do not "cause" robbery in the sense that they cause more robberies to be committed, but rather alter the mix of robbery types: where guns are readily available, robbers are more inclined to use them, and in areas where they are not, they are inclined to use other weapons (or no weapons) instead. A general decline in gun availability, in short, would probably not lessen the number of robberies that occur, but would increase the proportion committed with something other than a gun. Some possible effects of this "substitution" are discussed later, in Chapter Eleven. (As an aside, it can be noted that Cook's findings are inconsistent with the argument that many robbers would lack the psychic strength to commit their crimes in the absence of a gun, since over these fifty cities, the robbery rate is essentially unrelated to gun availability.)

In sum: There is some, but not much, evidence to suggest that at least some fraction of private weaponry is purchased as a reaction to crime; by far the largest share is purchased for entirely different reasons. There is little or no conclusive evidence to show that gun ownership among the larger population is, per se, an important cause of criminal violence. Most of the research designs employed in the literature would not allow for a decisive demonstration of such an effect, even if it did exist; designs that would allow one to detect the effect usually require data that do not exist or would be prohibitively expensive to generate.

It is true by definition that gun crimes require guns, and it is true empirically that guns, mainly handguns, are involved in a very large share of criminally violent incidents. (In 1967, for example, firearms were involved in 63% of all U.S. homicides, 37% of all robberies, and 21% of all aggravated assaults [Newton and Zimring, 1969: 39], and more recent data show similar patterns [see Chapter Eight, below].) But it does not follow from any of this that reductions in the private ownership of weapons would be accompanied by similar reductions in the rates of violent crime, or, what amounts to the same thing, that private weapons ownership is itself a cause of violent crime.

It perhaps goes without saying that the "average" gun owner and the "average" criminal are worlds apart in background, social outlooks, and economic circumstances. The idea that common, ordinary citizens are somehow transformed into potential perpetrators of criminally violent acts once they have acquired a firearm seems far-fetched, most of all since there is substantial evidence that the "typical" gun owner is affluent, Protestant, and middle class (see Chapter Six, above).

Again, it is true by definition that everyone who commits a crime with a firearm has a firearm in his or her possession when the crime is committed, and in this sense, the gun is obviously a "cause" of the crime. But there is no good reason to suppose that persons intent on arming themselves for criminal purposes would not be able to do so even if the general availability of firearms to the larger population were sharply restricted. Here it may be appropriate to recall the First Law of Economics, a law whose operation has been sharply in evidence in the case of Prohibition, marijuana and other drugs, prostitution, pornography, and a host of other banned activities and substances -- namely, that demand creates its own supply. There is no evidence anywhere to show that reducing the availability of firearms in general likewise reduces their availability to persons with criminal intent, or that persons with criminal intent would not be able to arm themselves under any set of general firearms restrictions.

On the other hand, it may be, and often is, argued that much criminal violence, especially homicide, does not result from criminal intent but rather evolves from empassioned disputes that become violent (or, better, lethally violent) just because the gun was there. This line of argument is sufficiently common and important to the issues of this volume that we have devoted a chapter exclusively to it; see Chapter Eleven, below.

A final theme to be considered here is that private weaponry contributes to the inherent lethality or dangerousness of the environment. Here, the idea is that private weaponry is a pool of risk; and with constant probabilities of harm across the pool, it follows that as the size of the pool increases, harm will also increase. But not enough is known about the characteristics of privately possessed weapons to decide whether this is a realistic depiction or not. Unloaded, a firearm is no more lethal than a can of peas. But it is not known just what proportion of private weaponry is kept loaded and ready for use. So far as we can tell, no one knows what proportion of weapons-owning households even keep ammunition for the weapon in the home, or how many are kept in operating condition (e.g., with cylinder or magazine or action in place), or how many are kept in secure, locked places, or, for that matter, how many weapons-owning households contain people who would know how to fire the weapon even if they wanted to. One could, of course, make assumptions about all these issues, each more or less plausible, but there would still be no firm evidence on which to base a policy conclusion. And until there is some evidence on these points, the contribution of any additional private weapon to the overall lethality of the environment cannot be assessed.

III. Does Private Weaponry Deter Crime?

The presumed deterrence effect of private firearms is often touted in anti-gun-control sources as an important argument against stricter weapons controls. What evidence is there that private firearms are an effective deterrent to crime? Or that they are not?

The argument that firearms are not an effective crime deterrent is typically made on the basis of two kinds of evidence: (i) that much crime occurs in situations or locations where the ownership of a gun by the victim would not, even in principle, deter the crime, and (ii) that the number of criminals actually shot in the process by intended victims is very low.

Concerning the first of these, little need be said. The burglary of an unoccupied residence, the most common situation of home burglary, is clearly not deterrable by any firearms kept in the home, since there is no one home to use them. Likewise, unless persons walk the streets armed (and some do, see below), then private weaponry is not going to deter much or any street crime. But none of these obvious facts bear on the question whether private weapons are useful deterrents to crimes occurring in situations or areas where they would be potentially deterrable, which is the more important empirical issue.

It is also true that very few burglaries, robberies, or rapes are accompanied by the victim shooting the offender (Newton and Zimring, 1969: 62-65; Yeager _et al._, 1976). Newton and Zimring note, for example, that over the period 1964 to 1968, roughly two burglaries in a thousand were foiled by the intended victim shooting at the burglar; thus, some 99.8% were not.[4] The figure for armed robbery is somewhat higher, but still low in absolute terms; their data suggest that about two percent of all robberies "result in the firearms injury or death of the robber" (1969: 63). Similar results in all cases are reported by Yeager and his associates.

Since about 90% of all home burglaries occur when no one is at home (Yeager _et al._, 1976: 1), the presented evidence for home burglary is somewhat misleading. If two in a thousand of all burglaries are foiled by the victim's use of a firearm, and 900 in a thousand occur with no one home, then the actual rate for burglaries committed with a person in the home is comparable to that reported for home robbery -- roughly 2%. We may thus conclude that the risk to a home robber, or to a home burglar burglarizing an occupied residence, of being shot and wounded or killed by the intended victim is roughly .02.

This seems a relatively low risk in absolute terms and one might therefore question whether a risk of this magnitude ever prevents potential burglars or robbers from getting into the business. Interestingly enough, however, this magnitude of risk apparently exceeds the risk to a burglar of being apprehended, charged, prosecuted, convicted, and sentenced for the crime (Kleck, 1979b: 11-12). In 1976, "the overall risk of a burglar being arrested and convicted was only about 1.8% for any given burglary. If half . . . received a prison sentence, then the risk of imprisonment was 0.9%." Since there is reason, and some evidence (e.g., Tittle, 1969; Erlich, 1973), to suppose that the possibility of imprisonment, however slight, deters at least some robbery and burglary (in the sense that it discourages people from ever robbing or burglarizing), and since the possibility of being shot and wounded or killed appears to be on the same order of magnitude, then it is plausible that at least some potential robberies and burglaries never occur because the people who would otherwise commit them fear the possibility of being shot by their intended victims. (See also Cook, 1979.)

Concerning burglary, it is also often noted that the probability is higher that a burglar will steal a weapon than be frightened off or actually shot by one (e.g., Yeager, 1976: 1). This may be relevant information for the homeowner who is considering the purchase of a defensive weapon, in that it compares the various types of risks and benefits that such a purchase might pose; but the result itself says nothing about whether the weapon, once purchased, effectively deters any crime or not.

Both Newton and Zimring (1969) and Yeager (1976) note that a private firearm is also more likely to be involved in a firearms accident than to be used in the deterrence of a crime. (Other data on this point are reviewed later in this chapter.) But this too is relevant only to the risks and benefits that might ensue if a gun is purchased and is not relevant to the issue of deterrence effects *per se*.

Another interesting theme in the Yeager pamphlet is that "the probability of being robbed, raped, or assaulted is low enough to seriously call into question the need for Americans to keep loaded guns on their persons or in their homes" (1976: 1). (How many private firearms are *kept loaded* is, of course, unknown.) Actually, as it happens, the odds of being criminally victimized in any year are between 5 and 10 times higher than the odds of being victimized by a natural hazard of any sort (e.g., flood, earthquake, etc.) (Wright *et al.*, 1979), but it is unlikely that one would want to argue that since the risk from natural hazards is so small, no protective measures against them need to be taken.

There is some evidence, reported by Yeager and noted elsewhere as well, that the use of a weapon against a robber is an effective deterrent in some cases. Robberies, that is, are less likely to be successful if the intended victim takes self-defensive measures (55%) than if not (85%) (Yeager *et al.*, 1976; see also Cook, forthcoming). Thus, "use of a weapon for self-protection may be the most effective means of resisting a robbery" (Yeager, 1976: 1). On the other hand, the opportunity to use a weapon to defend against a robbery is rare, since most robbery occurs on the street with the victim unarmed, and it is also true that the death or injury of the victim is more likely if he or she resists than if not (Cook, 1980; forthcoming; see also Chapter Eleven, below).

So far as can be told, there is no evidence available on the deterrence of crimes against business that results from weapons kept on the premises. One study, cited by Newton and Zimring (1969: 66), did show that roughly one small business in four has a gun for defense against crime on the premises.

The evidence from several studies on the relationship between gun ownership and victimization by crime was reviewed earlier in this chapter. In general, no demonstrable relationship exists. If weapons ownership were an effective crime deterrent, then, all else equal, one would expect less crime against armed than unarmed households, which the data do not show. But in this sense, weapons ownership would only function as a deterrent if the criminal knew in advance that the intended victim was armed, not a very likely possibility.

On the other hand, Kleck (1979b) has pointed out that while criminals may not know whether any specific household is armed, they might know that some areas of a state or city are more heavily armed than others, and avoid them accordingly. In this case, we would expect less crime against households located in neighborhoods where the rate of weapons ownership was known to be high. This, however, must remain a speculative possibility since no relevant data are known to exist.

Concerning the deterrence of aggravated assaults, the scanty evidence available suggests that assaults are less likely to be completed if the victim uses a weapon than if no protective measures are taken (Kleck, 1979b: 13; Yeager *et al.*, 1976).

In general, such evidence as exists on crime deterrence by private weaponry does not support the argument that guns are useless as deterrents of crime. The evidence does make it quite plain that most crime occurs in circumstances where the victim would have little or no chance to use a gun, even if one were possessed. Most violent crime (other than homicide) takes place away from the home, and thus, presumably, away from one's weapons; further, the most common type of home crime -- burglary -- typically occurs when the residence is unoccupied. On the other hand, in the relatively few cases where the opportunity to defend oneself with a gun is present, the evidence suggests that one is somewhat less likely to be successfully victimized if one is armed than if not.

At the same time, for the types of crimes in question (mainly, home burglary against occupied residences, home robberies, and aggravated assaults), the evidence also suggests that one is more likely to be injured or killed if one resists the offender in any way (whether with a weapon or with some other protective action) than if one merely capitulates. For crimes potentially deterrable by a private gun, then, the tradeoff in defending oneself with a gun is between a somewhat lower "completion" rate and a somewhat higher probability of suffering bodily harm.

It is also possible, of course, that the single most important deterrence effect of private weaponry could never be detected even in the largest and most sophisticated research effort -- namely, the generalized deterrence of crime that results from the high overall rate of firearms possession among U.S. households. In other words, there may well be vast numbers of potential rapists, burglars, robbers, assaulters, etc. "out there" in the general population who, nonetheless, never commit a crime precisely because they know many citizens are armed and fear the possibility of getting shot. As Newton and Zimring have remarked, "it is certainly possible that the crime rate would be still higher were it not for firearms" (1969: 65). Obviously, there is no evidence that would allow one to examine this possibility.

If the real or potential deterrence effects of privately possessed weaponry are necessarily difficult to determine, the actual use of private weapons in self-defense is not. Indeed, two recent national surveys have explored this issue in some detail, and it is appropriate to conclude the present chapter with a review of the more relevant findings.

The two surveys are, first, the 1978 DMI survey commissioned by the National Rifle Association and noted in several previous chapters, and secondly, a survey conducted in the same year by Cambridge Reports, Inc. (Patrick Caddell's polling outfit), under commission to the Center for the Study and Prevention of Handgun Violence. Both surveys are focussed rather more directly on public opinion about gun control than on the uses of weapons in self-defense; a comparison of the public opinion results is contained in Chapter 13, below.[5] But both also have at least some information on the uses to which private weapons are put. Most of Caddell's questions along these lines focus on handgun accidents and on respondents' experiences with handgun threats or attacks. DMI's questions, in contrast, focus heavily on the uses of weapons by respondents for their own self-defense.

Table 7-1 shows the relevant question sequence and marginal results from the Caddell survey. Consistent with other studies (see Chapter Two, above), 24% of Caddell's respondents say they possess a handgun, 17% (of the total, or 71% of the handgun owners only) say

TABLE 7-1

Data on Weapons Experience and Use from the Caddell Survey

[IF "YES" TO THE HANDGUN OWNERSHIP QUESTION]
Do you ever carry that handgun or pistol outside of the house with you for protection or not?

YES	7%
NOT SURE	4
NO	15
DON'T OWN HANDGUN	77

Do you own a handgun for protection or self-defense purposes? [IF YES] Have you ever had to use it?

YES, TO THREATEN	1%
YES, AND I FIRED	2
YES, BUT NEVER USED IT	14
NO TO FIRST QUESTION	83

[IF "YES" TO ABOVE]
Where did you use it?

AT HOME	1%
AT BUSINESS	--
ON THE STREET	--
PUBLIC FACILITIES	1
OTHER PLACES	1
INAPPLICABLE	97

Have you ever been involved in a handgun accident? [IF YES] Were you injured or not?

YES, NOT INJURED	2%
YES, INJURED	2
NO, NEVER	96

Has anyone in your family ever been involved in a handgun accident? [IF YES] Were they injured or not?

YES, NOT INJURED	2%
YES, INJURED	3
YES, KILLED	5
NO, NEVER	89

Table 7-1 (Continued)

Has a close friend ever been involved in a handgun accident? [IF YES] Were they injured or not?

YES, NOT INJURED	2%
YES, INJURED	6
YES, KILLED	7
NO, NEVER	85

Have you ever been attacked or threatened with a handgun? [IF YES] Were you injured or not?

YES, NOT INJURED	9%
YES, INJURED	2
NO, NEVER	89

Has anyone in your family, beside yourself, ever been attacked or threatened with a handgun? [IF YES] Were they injured or not?

YES, NOT INJURED	7%
YES, INJURED	2
YES, KILLED	3
NO, NEVER	88

Has a close personal friend ever been attacked or threatened with a handgun? [IF YES] Were they injured or not?

YES, NOT INJURED	9%
YES, INJURED	6
YES, KILLED	4
NO, NEVER	82

they own a handgun "for protection or self-defense," and 7% (of the total, or 29% of the handgun owners only) say that they carry their handgun with them for protection outside the home.[6] Likewise, 3% of the total sample (or 13% of the handguns owners only) have "had to use" their weapon in self-defense: two-thirds of those who have "had to use" their weapon in this manner actually fired it. It thus appears that 2% of the total adult population of the country has at some time in their lives actually fired a handgun in self-defense.[7]

The text of Caddell's report tends to downplay these self-defensive uses of weapons. "Almost half the time, the handgun was purchased in order to provide protection, although only 3% of the population has actually used a handgun for self-defense." And later, "since defense is a primary reason behind the ownership of many guns, it is interesting to see whether owners have actually used their handguns for protection. As the table shows, most have not." The theme here seems to be that, while many people buy their guns for self-protection, they are seldom used for that purpose, a point that might be used to undercut self-defense as a compelling reason to own a gun.

The data on accidents, threats, and attacks are featured more prominently. According to his data, about 4% of the respondents have been involved in a handgun accident, half of the incidents resulting in personal injury. Likewise, 10% report that a family member has been involved in such an accident and 15% report a similar experience for a "close personal friend." Caddell's data suggest that 5% of the adults in the United States have had a family member killed in a handgun accident, and 7% have had a close friend killed in the same manner.[8]

The evidence on handgun threats and attacks is similar: 11% of the respondents say they have personally experienced such an attack, 13% report such an attack for a member of the family other than themselves, and 19% report such an attack on a close personal friend.[9] Roughly half of all these attacks are said to have resulted in personal injury or death. Additional analysis reveals that both handgun accidents and handgun threats and attacks are more common among households possessing a handgun than among households who do not. "What these numbers say is this: handgun violence touches a lot of people in this country." Certainly, these data show that a handgun is at least as likely to be involved in an accident as it is to be fired in self-defense, consistent with the point made by Yeager and associates.

Table 7-2 presents the DMI data on weapons experience and uses. None of the DMI questions are precisely comparable to any of Caddell's, so direct comparisons between results are hazardous. Also, all of Caddell's questions ask about handguns, whereas the DMI items deal with all guns irrespective of type. A further important difference is that Caddell's questions on self-defensive weapons uses ask for information only about the respondent, whereas the corresponding DMI questions ask about both the respondent and the respondent's family members. These differences in question format are of some interest in themselves: Restricting the questions to handguns only and to respondents only will necessarily show less defensive weapons use than expanding the questions to include all guns and all family members.

According to the DMI data, 15% of all registered voters (or their family members) have "used a gun" for self-defense or other protective

TABLE 7-2

Data on Weapons Experience and Use from the DMI Surveys

FACE-TO-FACE SURVEY

Have you yourself or a member of your household ever used a gun, even if it wasn't fired, for self-protection or for protection of property at home, at work, or elsewhere (except in military service or police work)?

YES	15%
NO	85

[IF YES TO THE ABOVE QUESTION]

Was the incident important enough to report to the police?

YES	31%
NO	66
DON'T KNOW	3

Was the gun fired in the incident?

YES	40%
NO	56
DON'T KNOW	5

Was anyone killed or injured?

YES	9%
NO	86
DON'T KNOW	6

[ALL RESPONDENTS]
Has anyone else you know personally ever used a gun, even if it wasn't fired, for self-protection. . . (AS ABOVE)

YES	27%
NO	73

[IF YES TO THE ABOVE]
Was the incident important enough to be reported to the police?

YES	52%
NO	47
DON'T KNOW	2

Table 7-2 (Continued)

Was the gun fired in the incident?

YES	47%
NO	52
DON'T KNOW	1

Was anyone killed or injured?

YES	24%
NO	74
DON'T KNOW	1

TELEPHONE SURVEY

Have you yourself or a member of your household ever used a gun, even if it wasn't fired, for self-protection. . . (AS ABOVE)? [IF YES] Was this to protect against an animal or a person?

YES, AN ANIMAL	5%
YES, A PERSON	5
YES, BOTH	2
NO	88

And, have you, yourself, ever been in a situation where you needed a gun to protect yourself or your family or property but there was no gun available? [IF YES] Was this to protect against an animal or a person?

YES, AN ANIMAL	1%
YES, A PERSON	8
YES, BOTH	1
NO	90

reasons at some point in their lives; in the DMI telephone poll, the corresponding percentage for an identical question was 12%. The telephone survey shows that roughly half of these defensive weapons uses are to protect against a person. Of the 15% reporting a defensive weapons use in the face-to-face survey, 31% say the incident was important enough to report to the police. The weapon was actually fired, it appears, in 40% of the incidents; 9% of the incidents apparently resulted in injury or death (presumably, to the "other guy"). A parallel series of questions about personal friends produces similar, but uniformly higher, numbers on all items.

The DMI face-to-face survey thus suggests that 6% of all registered voters or their families (.40 x .15 = .06) have, at some point in their lives, fired a weapon of some sort in self-defense; this finding is thus not inconsistent with Caddell's finding that 2% of all U.S. adults have themselves fired a handgun in self-defense. There is, in short, no serious disparity between the two findings.

DMI's telephone poll reveals another finding that figures prominently in their report; 10% of the DMI respondents say they can recall a situation where they "needed a gun but no gun was available." (Caddell has no comparable item with which this result might be compared.) Most of these incidents, it appears, involved a person rather than an animal.

In contrast to Caddell, DMI's report strongly emphasizes the frequency with which guns are used in self-defense. First, from the Executive Summary: "13 million [registered voters] live in households in which a family member has had to use a gun in defense of self, family, or property from another person. Further, 9.5 million registered voters can recall a situation in which they needed a gun for protection when none was available. . . . With this many voters having direct experience with guns as instruments of self-defense, it is no surprise that 83% feel 'most people who have guns in their homes feel safer because of it.'" All these themes are emphasized again in the body of the report. "Seven out of every one hundred respondents (or 6.6 million Americans) indicated that they or a member of their family had used a gun at some time to protect self or property against another person. Additionally, nine out of every hundred (8.5 million) indicated that they themselves had been in a situation where they needed a gun. . . but none was available to them." The next paragraph of the report emphasizes that "those data may understate" the true use of guns in self-defense "because people may fail to recall episodes in the 'distant past' where they used, or desperately needed but did not have, a gun." Then, bringing the argument to its most pointed conclusion (and incidentally, its most pointed contrast with the Caddell report): "It is sometimes asserted that firearms in general, and handguns in particular, have limited use for defensive purposes. (...) The surveys found that almost 14% of the American electorate, or about 13 million Americans, could recall a time when they or another member of their household had used a gun for protection. . . . Of those who remember such an experience, 40% indicated that the gun was fired. . ., 31% said that the incident was important enough to report to the police, and 9% responded that someone was killed or injured in the incident. It is clear that guns are frequently used for protection. In a substantial minority of those remembered instances of gun use, it was necessary to fire the weapon, although few such incidents resulted in injury or death."

As is evident from the passages quoted above, DMI's report and conclusions depend heavily on rhetorical formulations of key results. Note first the persistent translation of percentages into raw numbers; via this device, a smallish percentage is transformed into, literally, millions and millions of people. A second prominent device is the occassional insertion of a word or a phrase to the actual question wording when the result is being discussed. Respondents were asked, for example, whether they could recall a situation "where you needed a gun. . . but there was no gun available." In the text, this becomes (at one point) "desperately needed but did not have a gun." Or consider the sentence, "in a substantial minority of those instances. . ., it was necessary to fire the weapon, although few such incidents resulted in injury or death." DMI's question, of course, asks only whether the weapon was fired and says nothing about whether it was necessary to fire it; these are, quite obviously, different things.

Despite the differences in emphasis and conclusions, both surveys touch enough common ground to sustain at least a few conclusions. First, as shown in all other studies, some 20-25% of all U.S. households possess a handgun, and about twice that percentage possess a weapon of some sort (see also Chapter Two, above). Secondly, many (although certainly not all) handguns are owned for purposes of protection or self-defense; approximately 40% of the handgun owners in both surveys cite self-defense or protection as the primary reason they possess the weapon, and some additional percentage cite this as a secondary reason (see also Chapters Three and Five, above). Third, at least some of the weapons that are owned for self-defense are actually used for this purpose at some point: perhaps as many as 15% of all registered voters or their families have "used" a gun for self-defense, a rather lower percentage (7% in the Caddell survey) carry their weapons with them for defense outside the home, a lower percentage still say that they, personally have "had to use" their handguns for self-defense (which is clearly a more restrictive phrasing than simply "used"), and the proportion of U.S. adults that have actually fired a weapon in self-defense is somewhere in the range of 2% to 6%. Fourth, the incidence of firearms accidents and handgun threats and attacks is at least as prevalent as, and probably somewhat more prevalent than, the incidence of weapons uses for self-defense; people are fired at, in other words, at least as often as they fire.

In sum: It is often said that "ownership of handguns by private citizens for self-protection against crime appears to provide more of a psychological belief in safety than actual deterrence to criminal behavior" (Yeager _et_ _al_., 1976: 35). This conclusion is misleading in several related ways:

(i) The vast bulk of private weaponry is not owned for "self-protection" but for other reasons.

(ii) Of the weaponry possessed specifically and primarily for defense (perhaps 25% of so of the total armament), some share is not for "self-protection against crime" but for protection against animals; evidence from DMI intimates that this factor might account for as much as half the total defensive ownership.

(iii) In this day and age, a "psychological belief in safety" probably ought not be dismissed as a trivial benefit. If people feel safer because they own a gun, and in turn lead happier lives because they feel safer and more secure, then their guns make a direct and nontrivial contribution to their overall quality of life.

(iv) That private weapons are inefficacious crime deterrents has not been established directly in any source. In the case of crimes occurring in circumstances where they are potentially deterable by a private gun, the evidence suggests, in contrast, at least some modest deterrent effects. (To be sure, most crimes do occur in what might be referred to as nondeterrable situations.)

(v) In owning a gun for protection (or any other reason), a homeowner runs some risk that the gun will be stolen or involved in an accident. This speaks to the potential costs of such a purchase, but not to the potential benefits, either psychological or objective.

(vi) At least some of the people who own guns for self-defense actually use them for that purpose; the precise percentage is, of course, very difficult to determine, as are the ensuing effects on crime and violence in the society as a whole. It is certainly possible that the high rates of crime and violence that predominate in the United States are due primarily to the widespread ownership of guns. But it is also possible that the widespread ownership of guns keeps the rates of crime and violence well below what they might otherwise be. At present, there is no good evidence anywhere that would allow one to choose decisively between these possibilities.

Footnotes

[1] The high rate of weapons possession by households in these nations is, of course, a reflection of their policies regarding an armed reserve militia. See Bruce-Biggs (1976) for details and some interesting commentary on international gun comparisons in general.

[2] That virtually all gun-owning households are not involved in a gun incident in any typical year, of course, is not proof that guns are not a cause of crime. Anti-control advocates often argue the contrary, namely, that private weaponry cannot be a serious cause of criminal violence because the vast bulk of privately owned weapons are never involved in a violent or criminal incident. But by the same token, the vast bulk of all cigarette smokers die of causes other than cancer of the lung. From this it cannot be inferred that smoking is not a cause of lung cancer. While most smokers die from other causes, the odds of dying from lung cancer are several times higher if one smokes than if not. The analogue to the case of private weapons would thus require one to show that, even though most (nearly all) guns are never involved in a violent or criminal incident, the odds of perpetrating such an incident are higher among persons possessing a gun than among those who do not.

[3] See, e.g., Alviani and Drake (1975: 1): ". . . the data on crime, accidents, and suicides involving handguns shows close correlations between levels of ownership and the rate of each type of incident." As

further evidence, these investigators also cite the regional comparisons discussed in the text. A very similar treatment of the Newton-Zimring results is found in a well-known publication of the Massachusetts Council on Crime and Correction, A Shooting Gallery Called America, especially pp. 1-2.

[4] The figure, 2 per thousand, is a comparison between the number of burglars shot or wounded in the course of the crime and the total number of burglaries reported to the police. Burglars who were shot at but got away and were never subsequently apprehended would presumably not show up in these data as deterred crimes, and so the calculated figure may be rather too low. Also, it is possible that many burglars are frightened off by the homeowner brandishing a weapon; these, presumably, should also count as deterred crimes but would not show up as such in these data. (All these points also apply to the calculated deterrence rate for robbery, as discussed below in the text.)

[5] Actually, DMI conducted two surveys for the NRA in 1978 -- one in person and one over the telephone. Both are surveys of registered voters only; in contrast, the Caddell survey is of all U.S. adults, whether registered to vote or not. Technical details on both surveys, and comparisons of their sample demographics, are presented in Chapter 13.

[6] Note that Caddell's figure -- 71% of handgun owners owning the gun for protection or self-defense -- is much higher than the roughly 40%

figure suggested in other sources (see Chapter Five, above). This is because the 40% estimate is based on a question asking for the most important reason one owns a handgun, whereas Caddell's question would also pick up self-defense as a secondary or tertiary ownership reason.

[7] It is impossible to determine from Caddell's report just how much of this 2% is comprised, say, of veterans who have used sidearms in combat situations or of policemen or other security personnel using handguns in the context of their jobs. Presumably, these kinds of experiences would contribute a sizable fraction of the total. Recall that according to the data shown in Chapter Five, somewhere between 8% and 13% of all privately-owned handguns are owned primarily for employment-related reasons.

[8] Caddell's figures for death from handgun accident and attack seem on the surface to be inordinately high. They are probably inflated to some extent by what is known in the survey literature as the "good respondent" syndrome -- i.e., by the tendency of small fractions of the population to provide an answer that they think the investigator wishes to hear. It must also be kept in mind, however, that the frame of reference provided by the question is very broad, i.e., "Has anyone in your family ever been involved...." In this case, "ever" could conceivably stretch back two or three generations (to, for example, grandparents and great-grandparents), and "anyone in your family" could include not just persons in the immediate family, but also aunts, uncles, cousins, and various other extended family members. Keeping these frames

of reference in mind, the numbers from the Caddell survey are more plausible. Rephrasing slightly, imagine a single individual killed in a handgun accident or attack. That person would have two parents, four grandparents, unknown numbers of aunts, uncles, and cousins, and possibly some children who could then accurately report that a family member had, indeed, been killed in a handgun mishap. Note further that if the person were married, all the equivalent in-laws could, again accurately, make the same report.

[9] The NORC General Social Surveys have periodically asked, "Have you ever been threatened with a gun, or shot at?" The percentage responding "yes" varies between 16% and 20%, or somewhat higher than Caddell's 11% (for respondents only). Caddell's question, however, stipulates a handgun threat or attack, whereas the NORC item says nothing about the kind of gun, which would account for the difference in observed results.

The Relationship Between Gun Ownership Levels and Rates of Violence in the U.S.

Gary Kleck
School of Criminology
Florida State University
Tallahassee, Florida 32303
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How are levels of gun ownership and rates of violence related? If we are to believe the conclusions of the Task Force on Firearms of the 1968 Eisenhower Commission, the answer is a simple one: "More Firearms-More Firearms Violence" (Newton and Zimring, 1969, p. xiii). However, it is worth noting that even in their enthusiastically pro-gun control report nowhere is it explicitly stated that increases in gun ownership caused, even partially, the increases in violent crime of the 1960's, although it is certainly implied throughout. The slogan just quoted is carefully phrased in such a way as to clearly suggest such an interpretation to the casual reader, without actually committing its authors to a claim they could not (or at least did not) support. Virtually all of the evidence marshalled to establish the association between gun ownership and violence could just as easily be interpreted as showing that more gun violence leads to more people acquiring guns for defensive purposes rather than the reverse (see especially their ch. 7). Yet the authors never acknowledged this alternative interpretation, despite devoting an entire chapter to the subject of firearms and self-defense, where they noted that home defense is a major reason why many people acquire and own guns!

There is no logically necessary relationship between levels of gun ownership and interpersonal violence, or even between levels of gun ownership and gun violence. Clearly, most people who own guns do not use them for inflicting harm on others, and many people commit acts of violence without using guns. It is possible for gun violence to decrease while at the same time gun ownership is increasing, as indeed happened in the United States during the 1950s[1]. Gun ownership can increase among people who are very unlikely to be violent, with or without weapons, while remaining constant among those social groups where interpersonal violence is relatively common, producing no change in the homicide rate. Guns, like other objects, do not have any meaning in and of themselves but only the meaning which is attached to them by people, a meaning which varies between social groups and between social situations. Some people, in some situations, may identify a gun as an instrument of interpersonal violence, a way of establishing dominance, or a method of settling a dispute; other people, in other situations, may not attach any such meaning. The mere possession of a gun alone does not necessarily make deadly violence more likely, and thus the connection between levels of gun ownership and violence is one which must be evaluated empirically.

This paper is partly an update and elaboration of an earlier investigation (Kleck 1979) of the relationship between trends in gun ownership and homicide rates in the U.S. The questions addressed in that paper and this one are:

1) To what extent, if any, doe levels of gun ownership in the general population affect U.S. homicide rates?

2) To what extent, if any, do crime rates affect levels of gun ownership?

The earlier paper covered the 1947-1973 period, while this one covers five additional years, spanning the period from 1947 to 1978. This change has not been a trivial one, as it has resulted in the need to modify some of the earlier paper's findings regarding the effect of gun ownership on homicide rates. In addition, I will examine the effect of gun ownership on robbery rates and test Franklin Zimring's "new guns" hypothesis (1975; 1976), to be explained later.

Previous Research

There are two ways in which gun ownership could lead to greater violence and death. First, the availability of guns could conceivably increase the frequency of assaults by facilitating or stimulating attacks which would not otherwise have occurred. Berkowitz (1968; 1981) has argued that the sight of a gun can elicit aggression from angered people because people have been conditioned to associate guns and aggression. This has been labelled the "weapons effect." The evidence regarding the hypothesis has been critiqued elsewhere (Kleck and Bordua, infra) and it was concluded that the available evidence does not support the hypothesis and that for the population as a whole, guns are as likely to inhibit assaults as to incite them.

Second, the avarilability of guns could increase the fraction of assaults which result in death (the assault fatality rate) because guns are deadlier than knives and other weapons commonly used in assaults. This hypothesis has considerably more support than the weapons effect hypothesis, but it is not known, even approximately, how much deadlier guns are than knives or other weapons. Simple comparisons of fatality rates of assaults involving the different weapons cannot be used to estimate the difference (Kleck, infra), contrary to the efforts of some to do so (Zimring 1968). This kind of comparison has produced widely differing results, some indicating that guns may be as little as 1.31 times as deadly as knives, when comparable assaulters in comparable situations are compared (Zimring 1977). Since handgun assaults (the predominant type of gun assault) are fatal only about 3% of the time and usually involve small caliber, and therefore less deadly, types of guns (Kleck, infra), it is not implausible that the difference is actually quite slight. Thus, it is not obvious that we should expect any significant relationship between levels of gun ownership and assaultive violence in the U.S.

The previous studies of the aggregate relationship between crime rates and gun ownership levels have been less than satisfactory. Newton and Zimring (1969) claimed to have found that more guns means more gun violence. Their analysis was methodologically crude, relying on simple zero-order correlations between gun ownership and gun use in violence, thus ignoring other factors which could influence gun use, and the possibility that more violence produces more gun ownership, rather than the other way around.

Murray's (1975) cross-sectional analysis indicated no relationship between gun ownership and state homicide rates, but Phillips and Votey's (1976) time-series analysis indicated a positive relationship. However, neither study developed any explicit model of homicide causation. Both treated gun ownership as if it were an exogenous variable, even though it is reasonable to suspect a simultaneous reciprocal relationship between gun ownership and crime, in which case gun ownership would have to be specified as endogenous. Further, Murray used survey measures of gun ownership which he himself acknowledged to be of doubtful accuracy.

Neither Seitz (1972) nor Fisher (1976) had any direct measure of gun ownership, and both in fact included homicide or assault rates as component items in their gun ownership factors, producing an artifactual association between the rate of violence and their "gun ownership" scores. Further, both authors ignored the possibility of a reciprocal relationship between homicide and gun ownership. Therefore, neither study's findings of a positive relationship between violence and gun ownership can be clearly interpreted.

The best cross-sectional study of the effect of gun ownership on levels of violence is that of Cook (1979), yet it suffers from two of the same problems as the previous studies. His regression analysis of 50 U.S. cities in 1974-1975 found that a gun density variable was positively and significantly related to both gun robbery rates and robbery murder rates (but not the overall robbery rate), controlling for a variety of other variables. Like Seitz and Fisher, he had no direct measure of gun density, since there is none available for cities. Instead, he used an index consisting of two components, both indicators of relative frequency of gun use (or citizen preference for using guns), rather than ownership itself. However, a far more serious problem has to do with his specification of the relationship between crime rates and gun density. Cook implicitly assumes that robbery rates have no influence on citizen's acquisition of guns and therefore no effect on gun density, allowing him to interpret a positive relationship between the two variables as indicating the effect of gun density on robbery rates. The assumption is clearly unwarranted, and if untrue, would bias the coefficients computed, due to identification problems. Cook's finding that gun density relates to gun robbery rates but not nongun robbery accords perfectly with a fear-of-crime interpretation: citizens acquire guns in response to reports of gun robberies, because they are frightening and/or more likely to be reported in the newspapers and on television, while not being affected by the frequency of nongun robberies, because they are viewed as less serious or frightening and/or are less widely reported through the news media. Therefore Cook's conclusion that gun density affects gun robbery rates is premature, and the meaning of his regression results unclear.

My own previous investigation (Kleck 1979) attempted to deal with these difficulties by developing a model of homicide rate and gun ownership trends which specified a reciprocal relationship between the two variables, with each positively affecting the other. The model was estimated using U.S. data for each of the years from 1947 to 1973, and each variable showed a significant positive effect on the other, suggesting that increases in gun ownership levels cause increases in the homicide rate, while increases in crime in turn cause more people to acquire guns, presumably because they fear crime and/or believe they need guns for home defense or self-defense.

Do higher levels of crime and violence cause higher levels of gun ownership? A considerable variety of evidence can be brought to bear on this question. Many survey studies of gun ownership include questions asking gun owners why they own guns, and one of the answer categories is always "defense", "protection", or something similar. Some studies ask only for the respondent's main reason for owning, while the better studies distinguish between defense as the main or primary reason for owning and as a secondary or tertiery reason, and include separate breakdowns of the results for handguns. Unfortunately, only the Bordua, et al. study (1979) reported results for respondents who personally own guns; the rest of the studies asked the reasons-for-ownership question of anyone who reports *household* ownership. Consequently, they ask the question of many wives whose husbands own guns, and who therefore can only report second-hand on why the guns are owned. Using the household as the unit of analysis thereby produces additional error in measuring reasons for ownership. The percentage of gun-owning households who own for defensive reasons is reported in Table 1. When the question is asked regarding guns in general, anywhere from 17 to 34% of the households report owning guns *primarily* for defense (ignoring the clearly deviant Ennis results), while between 28 and 65% own either primarily or secondarily for defense, in those surveys which permitted respondents to give both primary and secondary reasons. When the question is asked specifically about handguns, between 43 and 67% own primarily for defensive reasons, and in the single study which asked or secondary reasons for handgun ownership, over 73% owned either primarily or secondarily for defense. Therefore it is clear that defense or protection is a very common reason for owning guns in general, and is the *dominant* reason, although clearly not the only one, for owning handguns in the U.S. These results certainly suggest that increases in crime and violence should cause increases in gun ownership among that fraction of the population that believes gun ownership is an acceptable response to crime. They do not necessarily mean that it is *fear* of crime which causes all defensive gun acquisition, since a person can get a gun simply as a matter of prudence, "just in case", without feeling particularly strongly about it or experiencing any anxiety about potential victimization.

Some survey studies have directly investigated the issue of whether gun ownership is affected or produced by fear of crime, prior victimization, or the actual or perceived level of crime. Three of these studies (Wright and Marston 1975; Williams and McGrath 1976; De Fronzo 1979) can be discussed together, since they are all based on the same source of data, the General Social Surveys in the mid-1970's of the National Opinion Research Center. While these surveys were not specifically designed to investigate gun ownership, they did include a question asking if anyone in the respondent's household owned a gun, and another

Table 1: Fraction of Gun-owning Households Who Own for Defensive Reasons

Study	Date of Survey	Coverage	% Reporting defense or protection (primary reason/secondary, tertiary reason)* among those owning: any guns	handguns
Ennis (1967)	June, 1966	U.S. adults	78**	—
DMI (U.S. Congress 1976, p.9)	Oct., 1975	U.S. registered voters	17/38	—
Center for Political Studies, University of Michigan (1976)	1976	U.S. adults	46***	—
Florida (1977, Sect. II)	Spring, 1977	Fla. adults	—	54.5
California, (1977)	Spring, 1976	Calif. adults	—	55.5
Bordua, et al. (1979, 224, 231)	May, 1977	Illinois adults	19.8/8.4	66.7/6.7****
Cambridge Reports (1978, p18)	April-May, 1978	U.S. adults	—	43 (and 8% for law enf.)
DMI (1979), survey 1	May-June, 1978	U.S. registered voters	25/40	—
survey 2	Dec., 1978	U.S. registered voters	21	45
L.A. Times Poll	Jan., 1981	U.S. adults	34	—

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*Where there is no slash between percentages, this indicates respondents were allowed to give only one reason, presumably the most important one.

**37% of all households reported they owned a gun for protection of the household, even if it had other purposes as well. Since 47.4% of U.S. households in a 1966 Gallup survey (no. 733) admitted gun ownership (not 59% as erroneously reported in Newton and Zimring 1969, p6), about .37/.474 or 78% of all gunowning households own guns for protection. Unfortunately, since a disproportionate number of persons in this sample were crime victims (Newton & Zimring 1969, p176), it is likely that protection ownership is exaggerated.

*** The 1976 NORC survey showed 48% of all households owned guns. The CPS survey found that 22% of all households owned a gun for protection. Therefore, 22/48 = 46% of gunowning households have a gun for which one of the purposes, not necessarily the primary one, is protection.

****Among persons who own only handguns and no other type of gun. The figures from this study refer to respondents who said they personally owned a gun, rather than to those who merely report a gun in their household or home.

question asking what type of gun it was. All of these studies found that fear of crime was not positively related to gun ownership, although Wright and Marston nonetheless concluded that gun ownership is related to "anticipation and expection of crime" (1975, p. 101). Wright and Marston found that gun ownership was related to prior victimization for only two of four types of victimization (1975, p. 102), while Williams and McGrath (1976, p. 27) and De Fronzo (1979, p. 337) found no significant relationship between victimization and general gun ownership. All of the studies suffer from common deficiencies which render their findings suspect. First, fear of crime is very crudely measured, by a single item -whether the respondent was afraid to walk in his area at night. This hardly taps all or even most of the important dimensions of fear of crime. Second, a problem is introduced by the household ownership of guns, researchers could not know if the respondent personally owned a gun. Yet, the fear and victimization items referred only to the respondent, making it difficult to link up both these variables and gun ownership - any lack of relationship could be attributed to the fact that the variables refer to different persons, since when a female respondent reports household gun ownership, the guns are usually owned by her husband. In order to avoid this problem, the researchers created another one: they omitted females from the sample. Thus they could usually correctly infer the respondent's personal ownership from reported household ownership. Unfortunately, this procedure amounted to selectively removing fully half of the sample, the half most likely to report fear of crime and more importantly, the half which is proportionately most likely to own guns specifically for defensive reasons, i.e. those related to fear of crime. Data from Bordua, et al. (1979, p. 225) indicate that 53% of female gun owners own for guns primarily or secondarily for protection, while the figure is only 21% for men. This selective removal of cases in a manner systematically related to both gun ownership and fear of crime hopelessly biases the sample against the fear-gun ownership hypothesis. Third, of these three studies, only Williams and McGrath separately analyzed the relationship between fear or victimization and ownership of pistols. Since handguns are the gun type likliest to be owned for protection reasons (see Table 1), ownership of pistols is presumably the most likely type of ownership to be related to fear and victimization. That such a distinction is important is confirmed by the authors' findings, which show that although general gun ownership is unreleated to fear and victimization, pistol ownership is positively and significantly related to both (1976, p. 29).

Finally, and most seriously, the interpretation of the results of these studies is obscured by the failure to control for income when examining the relationship between fear or victimization and gun ownership.[2] The fear hypothesis, like most hypotheses in criminology, is a multivariate one, contingent upon a ceterus parebus assumption: those more fearful of crime and/or previously victimized are more likely to own guns other things being equal. Those with more income are obviously more able to buy guns, (Wright and Marston 1975,pp. 97, 99) independent of their motivation to do so. Income is also systematically related to fear of crime and victimization: those with more income are better able to locate their residences in more desirable, less crime-ridden areas. Thus the effect of income on both gun ownership and fear and victimization is a suppression effect which can create a false impression of nonrelationship. If fear and victimization have a positive effect on gun ownership when income is controlled, this effect would be hidden in an examination of the zero-order relationship between fear or victimization and gun ownership, because increases in income cause both increased gun ownership and decreased fear and victimization risks. Thus, while it is true that crime victims and those who fear crime are not more likely to own guns, this does not mean that fear and victimization do not have positive effects on gun ownership, contrary to the conclusions drawn by the authors of these studies.

Two minor studies deserve mention, for the sake of completeness. Caetano (1979) found a positive but nonsignificant relationship between prior victimization and gun ownership, but the study concerned a sample of 467 night students enrolled at a California college, a sample not representative of any larger population.

Northwood et al. (1978) studied 400 persons who applied for permits to carry concealed weapons in Seattle in 1972 and hence their study is of marginal relevance to our subject. Applicants were asked to indicate on their application forms why they needed to carry a concealed weapon. Most applicants gave only one or two reasons, and the two most common reasons were protection related. 50.3% gave personal protection as a reason, and 26.5% gave protection at place of employment as a reason. Although applicants apparently were not directly asked whether they had been crime victims in the past, fully 18.5% spontaneously volunteered the information that they had indeed victimized. Yet, astoundingly, the authors chose to phrase their conclusion from these findings as follows: "the fact that only (my emphasis) 18.5 percent of the applicants claim prior victimization as a reason for carrying a concealed weapon suggests that this factor alone is not sufficient to explain gun application behavior in general." The authors do not explain by what criterion they judge 18.5% to be a small figure, nor do they cite anyone foolish enough to think that prior victimization is the only factor explaining either gun application behavior or gun carrying. The evidence presented by the authors, as distinguished from their interpretation of it, clearly supports the hypothesis that fear or anticipation of victimization, as well as actual prior victimization, can at least partially account for gun carrying.

Clearly the best survey study of gun ownership, that of Lizotte and Bordua (1980) (see also Lizotte, et al. 1981) avoided all of the problems discussed with the others.[3] They measured gun ownership at the individual as well as household level, controlled for income, used a five-item measure of victimization and a three-item measure of fear of crime, as well as measuring attitudes towards violence, home defense, and blacks, and in addition explicated the relationships among actual levels of crime, perceived levels of crime, fear of crime, victimization and gun ownership for protection. They found that county crime rates positively affect respondent's perceived level of crime, which in turn positively affects fear of crime, which in turn has a significant positive effect on gun ownership for protection. In addition, victimization was found to have a significant positive effect on fear, which in turn affected gun ownership. Wright and Marston (1975) artificially contrasted two factors potentially affecting gun ownership, stating that anticipation and expectation of crime is a more important determinant than actual experiences with crime (p. 101). The Lizotte and Bordua findings indicate that it would be more accurate to say that actual experience with crime (i.e., prior victimization) is itself a determinant of the anticipation or fear of crime, which is in turn an important determinant of weapons ownership.

Lizotte and Bordua found that while the proximity of blacks in the respondent's area was positively related to the perceived level of crime, racist attitudes were not, indicating that blacks served as a symbol or indicator of crime levels and thus indirectly affected gun ownership, but that racist attitudes were not causes of gun ownership, either direct or indirectly. Northwood et al. (1978) had interpreted the relationship between per cent black and concealed weapons permit application rates in areas of Seattle as evidence of a response to "perceived racial threat", but the Lizotte and Bordua results make it clear that it would be considerably less misleading if it were called a "perceived crime threat". Contrary to the conclusions drawn by Wright (infra) regarding the so-called "fear and loathing" hypothesis, gun ownership is a response to fear (of crime), but not to "loathing", at least not insofar as loathing refers to prejudice towards blacks.

Other researchers have attempted to measure the effect of crime on gun ownership using data on aggregate levels of these two variables, determining the statistical relationship between crime rates and gun ownership in either a cross-sectional or time series analysis. In an unpublished study, Clotfelter (1977) pooled time-series and cross-sectional data on five states over differing time periods in the 1960's and 1970's regarding crime rates and a handgun acquisition variable which apparently measured handgun sales, applications for permits to purchase handguns, or the granting of permits to purchase handguns (Clotfelter is not clear on which of these was measured, or even whether the same thing was measured for all of the states). He found no significant relationship between the murder rate or the rate of other violent crimes and handgun acquisitions when a time trend variable was included, although the rate of violent crimes other than murder was significantly and positively related to handgun acquisitions when the trend variable was not included. Handgun acquisitions were found to be related to frequency of riots in the U.S., although not to riots within the states themselves. Regardless of what Clotfelter's gun acquisition variable was, it is clear that it measured only recorded, legal transfers. It has been found that even in noncriminal general population samples within states with fairly strong gun control laws, a large fraction of the guns owned were acquired illegally (Bordua, et al. 1979 , p. 160). Bordua and his colleagues found that illegal ownership in Illinois was most common among persons owning handguns (those most likely to be defensive owners) and least common among those who owned rifles and shot guns only (1979, p. 175). This strongly suggests that applications for permits to legally own or buy handguns may be a poor indicator of the demand for defensive guns, and that Clotfelter's mixed findings may indicate little about the general relationship between crime and the acquisition of handguns in general.

Bordua and Lizotte (1979) studied the relationship between rates of legal ownership of firearms and crime rates in Illinois counties in 1976. They found that crime rates had no effect on rates of legal ownership among men, but did have significant positive effects on legal ownership among women, consistent with our earlier observation that women are more likely to own guns for defensive reasons than men. Because the data did not permit them to do so, the authors could not isolate handgun ownership and determine the effect of crime rates on such ownership. Since rifles and shotguns are far more numerous than handguns, and male owners more numerous than female owners, it is not surprising that crime rates showed no effect on the ownership measure, especially when it is noted that the authors emphasize that they measured only legal ownership, and not total ownership levels.

Northwood et al. (1979) compared rates of crime reported to the police for census tracts with rates of concealed weapons permit applications. Without reporting any data, they rather vaguely stated that "the results suggest a low and statistically insignificant relationship (of crime rates) to gun application rates." However, this finding is of little significance since it may simply be a consequence of measurement instability. Since only about 2,400 people applied for a permit in the period studied, with these scattered over 121 census tracts, there were an average of about 20 permits per tract. Measurement of such an extremely rare event is necessarily erratic and unstable, and is therefore unlikely to show a relationship to any variable, regardless of whay may cause people to apply for permits to carry concealed weapons.

Finally, my own time series analysis of trends in gun ownership discussed earlier (Kleck 1979) found a significant positive effect of both the homicide rate and the robbery rate on levels of handgun ownership, and a significant positive effect of the homicide rate on levels of general gun ownership. The findings for handguns were replicated by Magaddino and Medoff (infra) using my data set, augmented to include data through 1977, and involving a somewhat different estimation procedure. These studies are superior to the other aggregate studies because they use actual estimates of the stock of firearms or handguns available, based on cumulations of production and importation figures, rather than indirect measures based on the use of guns.

In sum, the weight of the available evidence considered as a whole indicates that when either individual-level survey studies or aggregate-level studies are done properly, they indicate that many gun owners, and most handgun owners, own guns for defensive or protective reasons, that fear of crime and prior victimization are significantly and positively related to gun ownership, and that crime rates are positively associated with levels of gun ownership, especially handgun ownership.

Why Were Nearly 22 Million Handguns Added to the Available Stock From 1968 through 1978?

One of the most simplest pieces of information suggesting that crime rates have an effect on ownership is the fact that from 1968 to 1978, over 21 million handguns were manufactured or imported into the U.S. (see Table 2), amounting to about an 85% increase in the available stock, while the Uniform Crime Reports crime index rate increased by 52% (U.S. FBI 1979). There seem to be few other plausible reasons to account for such an increase in guns, except the hypothesis that crime increases were responsible. Nevertheless, Wright (infra) has attempted to refute the fear-of-crime explanation by doing a components analysis of the gun increase, purporting to show that other factors can indeed account for it. His approach is so novel that it deserves separate and extended attention.

Wright argues that additions to the stock of handguns from 1968 to 1978 were not a response to crime increases, but rather were due to four factors:

(1) Increases in the number of households in the U.S. New householders simply acquired handguns for the same, nondefensive reasons older householders had acquired them.

Table 2. Cumulated Stock of Firearms in U.S., 1977-1978*

	Total Stock of All Firearms	Total Stock of Handguns	All Firearms / 1000 Resident Population	Handguns / 1000 Resident Population
1947	50,543,473	13,098,619	350.8	91.3
1948	53,203,031	13,542,653	362.6	92.7
1949	55,406,460	13,805,157	371.1	92.9
1950	57,902,081	14,083,195	381.3	93.5
1951	59,988,664	14,431,568	389.6	94.1
1952	61,946,315	14,885,797	396.1	95.6
1953	63,945,235	15,301,654	402.3	96.7
1954	65,945,235	15,678,109	405.0	97.3
1955	67,387,135	16,107,346	408.2	98.0
1956	69,435,933	16,642,310	413.1	99.5
1957	71,416,509	17,180,342	417.2	100.8
1958	73,163,450	17,699,704	420.1	102.1
1959	75,338,188	18,348,376	425.3	103.9
1960	77,501,065	18,951,219	430.6	105.4
1961	79,536,616	19,512,961	434.6	106.6
1962	81,602,984	20,111,610	439.3	108.3
1963	83,834,808	20,787,672	444.8	110.3
1964	86,357,701	21,531,945	451.8	112.6
1965	89,478,922	22,545,245	462.4	116.5
1966	93,000,989	12,758,062	475.5	121.5
1967	97,087,751	25,431,479	491.7	128.8
1968	102,302,251	27,846,203	513.1	139.7
1969	107,111,820	29,571,586	532.0	146.8
1970	111,917,733	31,244,813	549.4	153.3
1971	116,928,781	33,022,675	567.3	160.1
1972	122,304,980	35,129,558	587.7	168.7
1973	128,016,673	36,910,819	610.3	175.9
1974	134,587,281	39,086,637	637.0	184.9
1975	139,915,125	41,081,714	657.1	192.8
1976	145,650,789	43,108,403	678.5	200.8
1977	150,748,000	45,022,453	696.7	208.1
1978	156,164,518	46,994,951	715.6	215.3

*As of the end of each calendar year, assuming unmeasured losses from stock equal unmeasured increments.

(2) The average number of handguns per household increased, but not for crime-related reasons. Rather, increased income and reduced gun prices made it easier to buy them, and households which already owned guns acquired more.

(3) Hunting and recreational use of, and demand for, handguns increased.

(4) Police demand for handguns increased, since the numer of policemen increased rapidly during this period.

Wright claims these factors, plus the continuing replacement of guns lost or deteriorated to inoperative condition, completely account for the handgun additions. However, closer examination of the evidence reveals that only the increase in households accounts for any significant fraction of the handgun increase - the others had negigible or nonexistent influence on the demand for handguns.

Table 2 indicates that from the end of 1967 (i.e. the beginning of 1968) to the end of 1978, there were 21,563,472 handguns added to the existing stock, including imported guns, imported parts assembled into guns, and completely domestically manufactured guns. From March, 1968 to March, 1978, there was an estimated increase in the number of households of 15,217,000 (U.S. Bureau of Census 1970, 1981). Survey data cited by Wright (fn. 6) indicate that over this period an average of 19.36% of U.S. households owned handguns. Assuming an average of 1.29 handguns per handgun-owning household[5], new households absorbed about .1936 x 15,217,000 x 1.29 = 3,800,354 handguns, assuming new households own possessions like handguns at the same rate old ones do. This is a rather generous assumption, since older households' ownership of such durable goods is the result of years of accumulation. This component therefore accounts for 17.6% of the handgun additions.

Wright asserts that the number of handguns per household increased over this period. Such an increase could as easily be cited as evidence of a response to crime, but Wright argues it is due to increased income and decreased handgun prices. These assertions are incorrect. Between 1967 and 1972, the average net selling value at the factory of handguns increased by 42.7%, from $43.49 to $62.05 (U.S. Department of Commerce 1972; 1977) (1972 is the latest available year for this variable), an increase of 42.7%. However, during that same period, the median money income of families increased only 40.1%, from $7,933 to $11,116. Therefore, the average American family's ability to purchase handguns declined during the period from 1967 to 1972. And although we do not know what has happened to the average value of a handgun since 1972, we do know that the median family income remained almost exactly constant, as measured in constant dollars, from 1972 to 1978 (U.S. Bureau of the Census 1981, p. 451). Further, the average number of handguns owned per household did not increase during this period. Wright argues that the principal evidence of this increase is the increased fraction of households which owned more than one type of gun. This fraction can be computed by adding up the percentages of households owning each of the three types of guns (shotguns, rifles, and handguns) and then subtracting the percent of households owning a gun.[4] Thus the 1968 Harris Poll indicates 33% of households owned a shotgun, 29% a rifle, and 20% a handgun, giving a total of 82%. Since 49% of all households owned one or more guns of any type, we subtract 49% from 82%, obtaining 33% of all households owning more than one type og gun. If we do the same calculation for the results of the 1977 NCRC survey (the closest year to 1978 in which a gun type breakdown for all three types of guns was done), the result is 30.5% of all households owning more than one type of gun. Thus, there was a slight decline in the fraction of U.S. households which owned more than one type of gun and probably a corresponding decline in the average number of guns owned per household, precisely what we would expect given the population's decreased ability to pay for guns. Thus Wright's deus ex machina cannot account for any of the handgun additions.

While Wright had no direct evidence of increased sporting use of handguns, he asserts that such an increase is suggested by an alleged increase in hunting activity. While such a parallelism is questionable in itself, the claim that hunting increased is in any case false. Wright creates the impression of an increased number of sport shooters by creating a "hunters rate" consisting of the number of hunting licenses added to the number of Federal duck stamps issued, divided by the population. This is misleading because licenses cannot buy guns - license holders buy guns.[6] Despite the availability of data on hunting license holders, a direct measure of what Wright was attempting to tap, he inexplicably chose to ignore it. Further he compared 1975 with 1970, even though the rest of his discussion concerned the period 1968-1978 and data on hunting was available for both years. When the appropriate measure and the correct years are used, the results indicate that the true "hunters rate", i.e. hunting license holders per 1000 population, declined slightly over this period, from 74.88 in 1968 to 74.58 in 1978 (U.S. Bureau of Census 1971; 1981)! Therefore the best available evidence suggests that recreational use of firearms decreased over this period and thus could not account for any of the additions to the handgun stock.

Finally, Wright asserts that police purchases of handguns absorbed no less than 1 to 10 million handguns during this period! He reaches this astounding total partly by assuming the average new police officer coming into service accounts for four handguns: one service weapon, one back-up weapon, and two others owned for reasons Wright fails to specify. In fact, there is not the slightest evidence to suggest that most officers possess even two work guns. In 1968, there were an estimated 489,000 full time equivalent (FTE) police protection employees, 87.3% of them sworn officers and therefore likely to carry a gun. The figures for 1978 are 656,000 FTE employees, 79.5% of them sworn officers (U.S. Bureau of the Census 1971; 1981), giving an estimated 400,000 FTE sworn officers in 1968, 520,653 in 1978, and therefore an increase of 120,653. With the generous (albeit unsupported) assumption that fully 50% of sworn officers carry a backup gun, we obtain an average of 1.5 guns per new officer, or 180,980 new handguns, accounting for less than 1% of new handguns added to the existing stock. Wright cites the 1972 Census of Manufacturing (sic) as indicating that in that year 251,000 handguns were shipped to Federal, State or local governments, the military excluded, and infers from this that nearly all of these went to police agencies. In fact, there is nothing in the Census of Manufactures to suggest that this total excluded shipments to the military. Thus, the vast majority of the handguns probably were shipped to the military rather than law enforcement agencies. In any case, with only about 12,000 new officers being added per year, the police would not account for even 50,000 handguns a year, even assuming the rather amazing average of four handguns per new officer, and few other government agencies have any use for handguns.

To summarize, new households and increased law enforcement demand account for about 3,981,334 of the additions to the handgun stock, while increases in recreational use and in the average number of handguns owned per household account for none, leaving 17,582,138, or 82% of the additions unaccounted for by Wright's factors. After the components analysis we are once again left, by the process of elimination, with the obvious original explanation for the upsurge in handgun levels: fear of crime.[7]

Analysis of U.S. Homicide and Gun Ownership Trends, 1947-1978

In my earlier study of trends in homicide and gun ownership, I developed a four equation simultaneous model, with the homicide rate, gun ownership rate, the homicide arrest clearance rate, and the homicide conviction rate as endogenous variables, and estimated the model using the two-stage laast-squares method on annual data for the U.S. from 1947 to 1973.[8] The present study updates the data set to include five additional years, 1974 to 1978. The only other major change has been the deletion of the conviction rate equation. The FBI stopped gathering data on convictions after the 1977, but this was not the major reason I deleted it. In the earlier article I had noted the erratic properties of the measure (Kleck 1979, pp. 904; 906). By the mid-1970's the measure showed improbably variable trends: 41% in 1974, 48% the next year, 44% the next, and back up to 52% the next (U.S. FBI 1975-1978). Although the variable was still negatively related to the homicide rate when the model was estimated on the 1947-1978 data set, its coefficient was statistical insignificant and showed large standard errors. As it seemed to contributing mostly measurement error to the model, it was deleted.

The variables included in the model are listed and described in Table 3 and their place in the model can be seen by consulting Table 4. The rationale for the inclusion of the variables other than the gun measures is contained in Kleck (1979) and will not be repeated here. The relationship between the homicide rate and gun ownership rates is specified as a simultaneous reciprocal one, with guns pushing up the homicide rate and the rate of homicide (and other crimes) pushing up gun ownership. One other variable specified as affecting the homicide rate is the robbery rate. In 1978, 10-13% of homicides occurred in connection with robberies (U.S. FBI 1979), so an increased robbery rate could directly contribute to the homicide rate. One important effect of the inclusion of this variable is that it "absorbs" some of the effect of gun ownership levels on the homicide rate. If gun ownership rates positively affect robbery rates, which in turn affect homicide rates, then the inclusion of the robbery rate in the homicide equation accounts for some of the effect of gun ownership on homicide, and should result in a smaller coefficient of the gun variable than would be the case without the robbery rate. This hypothesis will be tested later.

Besides the homicide rate, several other variables were specified as affecting the gun variables: the gun variable lagged one year, the median family income in the total guns and longguns equations, the income of families in the 20th percentile of the income distribution in the handgun equation, hunting license holders per 100,000 population in the total guns equation and the longgun equation, and the robbery rate in the handgun equation. Neither of the latter two variables proved to be significant in their respective equations, although they were for the 1947-1973 data set, and thus were deleted. The median family income variable reflects the ability of the average family to purchase a gun and thus should positively affect the total and longgun rates. The income

Table 3

Variables Used in Analysis

Symbol	Variable	Mean (In)	SD (In)	Mean (Natural Values)
H........	(Homicides--[executions and police homicides])/100,000 resident population	1.791	.302	6.286
G1.......	Estimated total firearms/100,000 resident population	10.771	.208	48,711
G2.......	Estimated handguns/100,000 resident population	9.426	.285	12,942
G3.......	Estimated longguns/100,000 resident population	10.468	.180	35,768
G4	New handguns added to existing stock in year t	----	----	1,067,518
C........	UCR % of murders and nonnegligent manslaughters known to the police cleared by arrest (for total cities)	4.480	.066	88.388
Y........	Persons aged 15-24/100,000 resident population	9.644	.138	15,573
I........	State and Federal sentenced prisoners present at the end of the year/100,000 resident population	4.700	.092	110,424
R........	Robberies/100,000 resident population	4.445	.569	101,028
P........	% of families with incomes less than $3,000 in constant 1974 dollars	2.233	.452	10.303
F........	Median family income in constant 1974 dollars	9.192	.242	10,103
D........	Income of families in the twentieth percentile of the income distribution in 1974 dollars	8.444	.453	4,984
S........	Holders of hunting licenses/100,000 resident population	8.974	.062	7,913
A........	Total motor vehicle registrations/100,000 resident population	10.699	.260	45,819

NOTE.--Variables refer to the United States, each year 1947-78.

of the 20th percentile reflects the income level of the poor. Since a larger fraction of guns bought by the poor are handguns than is the case for wealthier persons, we would expect the income of the poor to be more closely related to handgun levels than for levels of other gun types.

The measurement of gun ownership in the United States consisted of cumulating the annual totals of firearms manufactured by domestic manufacturers for private sale in the United States and those imported for private sale in order to estimate the total stock of guns available, and then dividing this figure by the resident population for each year in order to obtain a per capita figure. This procedure was carried out for total firearms, for handguns alone, and for longguns alone. The measurement method does not take account of losses of firearms due to destruction, misplacement, or deterioration, but the numbers of such guns over ths short period of time studied (1947-73) would in any case be very small compared with the total gun stock. Perhaps the most serious shortcoming of the data used for this measure was that for 1947-68 there was no count of inports of firearm "actions" (trigger and bolt or lever) and other parts which could be assembled into workable guns.[9] It might also be pointed out that data used by the Firearms Task Force to estimate the total of guns manufactured and imported before 1918 were rather incomplete, and therefore the cumulated total subsequent to that period is likely to be an underestimate. However this is not important for our purposes since we are only interested in trends in the stock of guns since 1947, rather than the absolute level of the stock.

Results

The statistical results of the estimation of two of the models are presented in Table 4. The upper half of the table, with equations 1-3, contains the results for the version of the model in which the included gun variable is the total gun ownership rate and all of the variables are expressed in natural logs.[10] The lower half, with equations 4-6, contains the results for the model in which the gun variables is the handgun ownership rate, and again the model is in the natural log format. In the last two columns of table 4 four descriptive statistics are given: D-W, the Durbin-Watson statistic,[11] is a measurement of auto-correlation of the disturbances in an equation (for a discussion of auto-correlation and the D-W statistic, see Johnston (1972, pp. 243-66)); SEE is the standard error of estimate, that is, the standard deviation of the error term of the equation; df is the degrees of freedom of the equation; and Σe_i^2 is the sum of the squared residuals, a measure of the fit of the equation to the data.[12]

Table 4

Unstandardized Structural Equation Coefficients for Complete Model (Ratio of Coefficients to their SEs in Parentheses)

Equation Number	Dependent Variable	Intercept	ln $\hat{G1}$	ln $\hat{C}$	ln Y	ln I	ln R	ln P	D-W d.f.	SEE Σe_i^2
1	ln H	3.378	.986 (0.53)	-1.846 (-6.40)	.621 (5.40)	-.472 (-5.53)	.302 (5.90)	.228 (5.48)	2.31 25	.0198 .0098
2	ln G1	0.513	ln $\hat{H}$ 0.56 (6.64)	ln $G1_{t-1}$ .912 (46.10)		ln F .039 (3.14)			1.55 28	.0064 .0011
3	ln C	2.194	ln $\hat{H}$ -.047 (-1.84)	ln C_{t-1} .652 (5.03)		ln A -.052 (-2.69)		1.96 28		.0154 .0066

Equation Number	Dependent Variable	Intercept	ln $\hat{G2}$	ln $\hat{C}$	ln Y	ln I	ln R	ln P	D-W d.f.	SEE Σe_i^2
4	ln H	1.727	.122 (0.56)	-1.572 (-4.21)	.644 (6.04)	-.446 (-4.89)	.301 (4.26)	.227 (5.37)	2.40 25	.0213 .0113
5	ln G2	-.073	ln $\hat{H}$ .060 (3.02)	ln $G2_{t-1}$ .898 (32.41)	ln D .111 (6.21)				1.80 28	.0114 .0036
6	ln C	2.228	ln $\hat{H}$ -.049 (-1.91)	ln C_{t-1} .644 (4.99)	ln A -.051 (-2.69)				1.93 28	.0154 .0066

Each model contains three equations, one for each of the endogenous variables: H, the homicide rate; G, gun ownership; and C, the homicide arrest clearance rate. As an aid to interpreting the tables, equation 1 is written out in full:

$$\begin{aligned}\ln H = 3.378 &+ \underset{(0.53)}{0.986} \ln G1 - \underset{(-6.40)}{1.846} \ln C + \underset{(5.40)}{0.621} \ln Y \\ &\underset{(-5.53)}{-0.472} \ln I + \underset{(5.90)}{0.302} \ln R + \underset{(5.48)}{0.228} \ln P + e_H\end{aligned}$$

where ln denotes the natural logarithm of each variable, e_H is the residual for the homicide equation, the coefficients are unstandardized coefficients, and the variables are as defined in table 1. The number in parentheses below each regression coefficient is the ratio of the coefficient to its standard error.[13]

The coefficients presented in table 4 are generally consistent in direction with the predictions of our theoretical model. The arrest clearance rate shows a significant negative effect, supporting a general deterrence hypothesis. Further, the measure of incapacitation, I, shows a significant negative effect on the homicide rate independent of the clearance rate, supporting the hypothesis of an incapacitative effect of imprisonment on the homicide rate.

The gun results indicate that, contrary to what was found for the 1947-1973 data set, the coefficient indicating the effect of gun ownership on the homicide rate is not statistically significant, either when the total guns measure is used or the handgun measure. On the other hand, the 1947-1978 results confirm those of the 1947-1973 data set regarding the effect of the homicide rate on the gun ownership rate. The homicide coefficients in both the total gun and handgun ownership equations are positive and significant.

Clearly the difference between this and the earlier study in time points in the data set produced different results regarding the apparent effect of gun ownership on the homicide rate. The shift in results is magnified even further when the model is estimated only on later time points, from 1952 to 1978. The homicide equation for this data set is contained in Table 5, equation 2. (Equation 1 is simply a repetition of equation 1 in Table 4, included here for ease of comparison). The gun variable's coefficient is even more contradictory to the conventionally expected result, even turning negative, although still insignificant. While the model cannot be estimated only on time points in the 1960's and 1970's, because there would be too few degrees of freedom for stable estimation, the results indicate that when data points from this period predominate more in the sample, the results are more inconsistent with the hypothesis that higher general gun ownership levels lead to higher homicide rates. When data points from before the mid-1960's predominated, the results showed gun levels positively effecting homicide levels, but when they became a minority, in the 1947-1978 set, the results did not show any significant effect. This strongly suggests that something changed in the 1960's or 1970's regarding the patterns of ownership and criminal use of guns. This matter will be explored later.

Equation 3 is the same as equation 1, except that all the variables are expressed in their ordinary natural values. They again show no significant effect of gun ownership on homicide rates, while results for the rest of the model remained substantially unchanged. Equation 4 is the same as equation 4 in Table 4, again, repeated for ease of comparison. When the handgun rate is included in the model in its natural value form (equation 5), it again shows no significant effect. In equations 6 and 7, the longgun variable is in natural log and natural value forms, respectively, and shows no effect in either case. Given the relative infrequency of the use of longguns in homicide, this result should in any case not be surprising.

In equation 8 the model was estimated including a time trend variable, as a way of controlling for omitted variables which show a consistent trend over time and could account for the apparent effects of variables included in the model. The trend variable was found to have an insignificant coefficient (not shown, but equal to -0.003, z-ratio = -0.35) and the coefficients of the other variables in the model remained in the same direction and statistically significant (except for the P coefficient, p = .11). The gun variable still shows no significant effect on the homicide rate.

Some critics have argued that it would do no good to ban the further manufacture or importation of guns, since the available stock is so huge that it would easily meet the needs of future criminal users of guns. Apparently in response to this argument, gun control advocate Franklin Zimring has suggested that decreasing the annual inflow of guns, in particular handguns, would reduce gun-related crime, and even have an effect disproportionate to the magnitude of the reduction (1976, p. 103). He bases this belief on the results of gun-tracing efforts which indicate that a disproportionately large fraction of "crime" handguns confiscated by police (mostly in connection with illegal carrying arrests) are new guns, originally sold to their first owner within a few years of the time they were confiscated. The belief that rates of introduction of new handguns have a disproportionately large impact on gun-related crime rates is

Table 5
Unstandardized Structural Equation Coefficients for Homicide Equations
(Ratio of Coefficients to Their SE's in Parentheses)

Equation No.	Gun Variable Used*	Intercept	$\hat{G}$	$\hat{C}$	Y	I	R	P	D-W df	SEE Σe_i^2
1	ln G1	3.378	0.099	-1.846	.621	-.472	.302	.228	2.33	.0198
			(0.53)	(-6.40)	(5.40)	(-5.53)	(5.90)	(5.48)	25	.0098
2	ln G1 (1952-78)	12.751	-.750	-2.518	.728	-.219	.455	.179	1.73	.0227
			(-.98)	(-2.75)	(3.21)	(-1.08)	(3.58)	(2.06)	20	.0103
3	G1	18.129	-3.0×10^{-5}	-.151	.0001	-.018	.024	.060	1.75	.1365
			(-1.11)	(-4.88)	(2.46)	(-3.48)	(7.98)	(3.06)	25	.4658
4	ln G2	1.727	.122	-1.572	.644	-.446	.301	.227	2.40	.0213
			(.56)	(-4.21)	(6.04)	(-4.89)	(4.26)	(5.37)	25	.0113
5	G2	19.047	-.0001	-.166	.0001	-.017	.025	.063	1.79	.1330
			(-1.39)	(-4.43)	(3.12)	(-3.20)	(7.28)	(4.10)	25	.4422
6	ln G3	3.042	.121	-1.841	.634	-.478	.302	.233	2.32	.0213
			(.63)	(-6.30)	(5.00)	(-5.16)	(5.98)	(5.11)	25	.0113
7	G3	13.326	-1.3×10^{-5}	-.113	1.7×10^{-4}	-.019	.023	.070	1.67	.1618
			(-.31)	(-3.53)	(2.72)	(-3.15)	(6.96)	(2.82)	25	.6545

Table 5 continued onto following page.

Table 5 (Continued)
Unstandardized Structural Equation Coefficients for Homicide Equations
(Ratio of Coefficients to Their SE's in Parentheses)

Equation No.	Gun Variable Used	Intercept	$\hat{G}$	$\hat{C}$	Y	I	R	P	D-W df	SEE $\sum e_i^2$
8	ln G1 (with T)	.413	.205 (0.70)	-1.531 (-3.13)	.666 (5.34)	-.417 (-2.83	.304 (5.47)	.184 (1.25)	2.41 24	.0211 .0107
9	G4	13.558	$-2.6\text{x}10^{-7}$ (-1.09)	-.112 (-4.85)	.0002 (3.58)	-.025 (-5.92)	.022 (11.86)	.053 (2.11)	1.82 25	.1334 .4449
10	none	3.672		-1.747 (-3.86)	.613 (4.31)	-.410 (-4.25)	.335 (6.82)	.208 (6.00)	1.88 26	.0292 .0171
11	ln G2 (exogenous)	1.094	.172 (.84)	-1.519 (-3.82)	.649 (5.70)	-.462 (-5.10)	.286 (4.20)	.235 (5.61)	1.96 25	.0226 .0102
12	ln G1 (R omitted)	-0.776	.735 (4.91)	-2.356 (-6.03)	.884 (7.62)	-.847 (-11.25)		.292 (6.18)	1.78 26	.0250 .0162

*See Table 4 for description of variables. Where gun variables is in natural values, all other variables are also in natural values.

called by Zimring the "new guns" hypothesis, the term implying that it is either the newness of the guns themselves, or something related to the newness, which puts them at high risk of criminal use.

Zimring is never explicit about why he thinks new handguns are disproportionately represented among crime guns. One plausible explanation would be simply that newer guns are held by different, more crime prone, sorts of persons than older guns. Since Zimring, as a gun control advocate, has emphasized guns themselves as important in contributing to crime, rather than the sorts of people who use them, his reluctance to state his hypothesis explicitly in this form is understandable. Were he to do so, he would be placing himself uncomfortably close to those whose slogan is "guns don't kill, people kill." In any case, he says nothing about possible differences between the kinds of people who own older and newer guns.

It is probably the case that newer guns are disproportionately owned by younger people, regardless of their reasons for ownership or criminal behavior, simply because they have reached the age when they acquire their first gun relatively recently, while older people reached that age a longer time ago and therefore are more likely to have possessed guns a long time. Given that 45% of persons arrested for homicide and 73% of those arrested for robbery in 1980 were under age 25, this alone could account for the disproportionately large fraction of new guns involved in crime. If true, then the rate of introduction of new handguns should show no relationship to the rate of gun-related crimes.

The results of the test of the "new guns" hypothesis are presented in equation 9. The gun variable included in this equation is simply the number of new handguns, introduced in the U.S. in year t. The results are directly contrary to Zimring's hypothesis. The number of new handguns introduced in year t is not related to the homicide rate in year t. Since the number of new guns added in years t-1 or t-2 would be even less "new", they would logically be even less likely to show a relationship to the homicide rate.

Because the gun variables were unrelated to the homicide rate, the model was estimated without the gun variable. The results are in equation 10. As was done in the earlier paper, the adequacy of the basic model is tested by using it to forecast the homicide rate for 1979, one year in advance of the data set on which the model was estimated. When the 1979 values for the predictor variables are substituted into equation 10, the value of the natural log homicide rate forecast by the model is 2.3158. In fact, the natural log of the homicide rate for 1979 was 2.2750. The error of prediction was therefore 0.0408, a 1.79% error. Since the error is only 1.44 times the size of the SEE of the equation, we conclude that the causal structure we have modeled could have generated the observed 1979 homicide rate and that our model is satisfactory (see Land and Felson 1976, pp. 596-7 for a discussion of a similar forecasting procedure applied to crime rates).

If the homicide rate was assumed to not influence the gun ownership rate, then we would treat the gun variable as exogenous. Equation 11 shows the results of estimation of the model with the handgun ownership rate treated as exogenous. As with the other equations, its coefficient is insignificant, indicating no effect of general levels of handgun ownership on the homicide rate.

We hypothesized that some of the influence of gun ownership rates on homicide rates is indirect, through their affect on robbery rates. In equation 12, this is confirmed. When the robbery rate is omitted from the model, and therefore not controlled for, the gun ownership variable does show a significant effect on the homicide rate. To test whether gun levels did indeed affect robbery rates, we estimated a robbery equation with the gun variable included as a predictor variable, and obtained the following robbery equation:

$$\ln R = -10.939 + \underset{(4.13)}{.500} \ln R_{t-1} + \underset{(4.51)}{1.091} \ln \widehat{G1} + \underset{(1.81)}{.499} \ln Y - \underset{(-4.44)}{.719} \ln I + e_1$$

Thus, gun ownership levels appear to affect robbery rates, which in turn affect homicides rates, although the general level of gun ownership does not directly affect the homicide rate. The robbery equation was also estimated with the number of new handguns added in year t as the gun variable. It was found that this variable had no significant effect on the robbery rate. Thus the "new guns" hypothesis fails in regard to both homicide and robbery, the two most serious gun-related crimes.

The gun equations which correspond to the homicide equations presented in Table 5 are contained in Table 6. They generally show that, as expected, the homicide rate has a positive and insignificant effect on gun ownership levels, suggesting that at least some significant fraction of gun ownership is a response to crime. The equations are numbered to correspond to those in Table 5. Equation 1 is a repetition of equation 2 in Table 4. Equation 2 is the same as equation 1, but estimated over the period 1952 to 1978. It shows that for a period dominated more by years in the 1960's and 1970's, the homicide variable shows an even stronger effect on the gun ownership. Equations 4 and 5 are the gun equations when the model was estimated with handgun ownership as the gun variable, and equations 6 and 7 are the gun equations when longgun ownership is

Table 6
Unstandardized Structural Equation Coefficients For Gun Equations
(Ratio of Coefficients to Their SEs in Parentheses)

Equation Number	Gun Variable Used	Intercept	G_{t-1}	$\hat{H}$	F	D	other variables	D-W df	SEE $\sum e_i^2$
1	ln G1	0.513	0.912 (46.10)	0.056 (6.64)	.039 (3.14)			1.55 28	.0064 .0011
2	ln G1 (1952-78)	2.737	.756 (13.35)	.180 (5.40)	-.044 (-.98)			1.37 23	.0168 .0065
3	G1	474.395	.940 (45.51)	393.378 (4.95)	.198 (3.03)			1.61 28	349.8 3.4×10^6
4	ln G1	-0.073	0.898 (32.41)	.060 (3.02)		.111 (6.21)		1.80 28	.0114 .0036
5	G2	-909.305	.951 (30.42)	91.520 (1.67)		.262 (4.64)		1.98 28	191.6 1.0×10^6
6	ln G3	.907	.935 (48.79)	.051 (8.12)	-7.6×10^{-4} (-.05)		-.032 (-1.19)	1.61 27	.0051 .0007
7	G3	1431.183	.951 (52.17)	279.211 (7.03)	.022 (.42)		-.117 (-.95)	1.60 27	192.0 2.3×10^5

Table 6 continues of following page.

Table 6 (Continued)

Unstandardized Structural Equation Coefficients For Gun Equations

(Ratio of Coefficients to Their SEs in Parentheses)

Equation Number	Gun Variable Used	Intercept	G_{t-1}	$\hat{H}$	F	D	other variables	D-W df	SEE $\sum e_t^2$
9	G4	-1.2×10^6	-5.531 (0.08)	1.8×10^5 (1.33)		234.935 (2.41)		1.79 28	5.0×10^5 6.2×10^{12}
11	ln G2 (exogenous)	.203	.952 (18.08)			.010 (1.18)	.043 (1.65)	0.95 28	.0169 .0080
13	ln G1	.676	.917 (41.96)	.055 (6.18)	.033 (2.01)		-.018 (-.54)	1.49 27	.0063 .0011
14	ln G2	.176	.880 (27.81)	.017 (0.41)		.092 (3.81)	.039 (1.22)	1.88 27	.0112 .0034

See Table 4 for description of variables. See text for identification of "other variables." The G_{t-1} in each case is the lagged version of whatever gun variable was used in that equation. Where the gun variable is indicated as being in natural logs, all the other variables of that equation are as well. Gun equation 12 is virtually identical to equation 1 and so has been omitted. There is no gun equation 10, since homicide equation 10 had no gun variable.

used. They all show a significant positive effect of homicide on gun ownership, even though longguns are usually not described by their owners as primarily owned for defensive reasons. However, since there is some longgun ownership among owners who say protection is a secondary reason for owning (Bordua, et al. 1979, p. 231), the result is not entirely surprising. Further, it may be that gun owners state reasons for ownership which reflect popular or stereotypical reasons for owning guns, giving the conventional reason they think the interviewer expects to hear, even when they own their guns for purposes which other types are conventionally thought to serve better. If so, protection-oriented ownership of longguns may be more common than is indicated by ownership surveys.

In equation 9, homicide has a barely significant effect on yearly additions of new handguns. Equation 11 was estimated using ordinary least squares, with homicide omitted. The lagged robbery rate was included as an exogenous variable, and it shows a significant effect on handgun ownership levels. Equation 13 merely serves to demonstrate why S, the measure of hunting demand for guns, was not included in the gun equations. Contrary to the 1947-1978 results, hunting did not show any significant effect on gun ownership. In equation 14, both homicide and robbery are included in a handgun equation and it is found that neither shows a significant coefficient. However, either of the variables included singly in the handgun equation did show a significant effect on ownership levels. It seems reasonably clear that this is due to multicollinearity: the homicide and robbery rates are so highly correlated that both "account" for the same share of the variability in gun ownership. Therefore either of the two can be included in the gun equation, but not both. It is therefore statistically impossible to estimate the relative effects of the two crime variables on handgun ownership levels within the current research model.[14]

The Changing Character of U.S. Gun Ownership

Why is it that in a data set dominated by years prior to 1964 or so, gun ownership in the general population appeared to have a significant positive effect on the homicide rate, while in the 1947-1978 set, dominated by cases from the 1960's and 1970's, there was no such effect apparent? I propose that the apparent discrepency is due to a change in the pattern of ownership of firearms which occurred in the 1960's.

The vast majority of gun owners never commit a serious crime of violence with their guns. Although at least half of America's 80 million households own a gun (Erskine 1975), and there may be more than 160 million guns in circulation by now, it is doubtful if even 200,000 different guns or gun owners are involved in serious violent gun crimes in any given year. Since our measure of gun ownership describes the general population rather than any crime-prone segment of it, it is largely a measure of gun ownership among the law-abiding and nonviolent. Levels of legal gun ownership have been found to be unrelated to rates of violent crime in a cross-sectional analysis (Bordua and Lizotte 1979). Therefore, the only reason why such a measure would show an effect of gun ownership on homicide is if it served as an indicator of ownership within the violence-prone segment of the population. The difference in results found between data sets could be due to the possibility that trends in general gun ownership and ownership among the violence-prone roughly paralleled each other up until the 1960's, but that they no longer did so in more recent years. In particular, it seems likely that ownership among low income and nonwhite people began to increase even faster than in the rest of the population around the mid-1960's. Thus, as time went on, the general level of gun ownership became an increasingly poor indicator of gun ownership among the violence-prone and consequently showed less of a relationship with the homicide rate for time periods dominated by later years.

The best evidence of changing firearms ownership patterns would be national survey evidence which compared reported gun ownership among persons with arrest and/or conviction records of violence with ownership among those without such records. Unfortunately, I know of no published national survey which has made such a comparison, and there certainly are not enough of such surveys to show whether trends among the two groups differ. A second-best strategy would involve examination of reported gun ownership among the poor and among blacks. Between 1952 and 1978, from 49 to 66% of homicide arrestees were black, although blacks constituted only 11 to 12 % of the U.S. population (U.S. FBI 1953-1979). For seventeen cities studied in 1967, 87% of homicide arrestees were in blue collar occupations, were service, farm or domestic workers, housewives (presumably most of these were wives of men with occupations similar to the male arrestees), or were unemployed (Mulvihill, et al. 1969, p. 270). Serious violence, including gun violence, is heavily concentrated among low income and nonwhite people, and thus gun ownership trends among these groups are especially crucial. Before 1966 there were almost no national surveys which asked a gun ownership question which would allow us to establish some benchmark levels of ownership, and after 1966, although I know of at least twenty such surveys, there have been almost no analyses which published breakdowns by income groups (Wright and Marston, 1975 being a prominent exception). A few breakdowns by race have been published, but these show extremely erratic trends, not surprising since typical national surveys, with a total sample size of 1,200 often contain only about 30 to 70 gun-owning black households. For what it's worth, reported handgun ownership in U.S. white households increased from 16% in 1972 (Gallup poll no. 852, in Gallup in 1978) to 25% in 1978 (Cambridge Reports 1978), while it increased even more sharply in black households over the same period, from 11% in 1972 to 23% in 1978, supporting the hypothesis that gun ownership trends in groups with high rates of violence were diverging from those for the rest of the population.

A more indirect, but perhaps more reliable kind of evidence of changing ownership patterns is found in data on the criminal use of firearms. Trends in the relative frequency with which homicides are committed with a firearm can serve as a rough indicator of trends in the relative availability firearms among the violence-prone, although it is also a product of weapon preference. Table 7 shows that the relative frequency of gun use in homicide remained almost constant

Table 7. Firearms Use in Homicides, by Race of Victim, 1960-1978

	Per cent of Homicides by Firearms			% Black Homs. by Guns
Year	Total	Black	White	% White Homs. by Guns
1960	56.7	54.0	60.1	0.90
1961	57.3	54.7	60.2	0.91
1962	56.4	55.3	59.0	0.94
1963	57.2	56.3	59.2	0.95
1964	57.5	56.8	59.2	0.96
1965	59.0	58.8	59.9	0.98
1966	60.6	62.0	59.7	1.04
1967	63.9	65.3	62.7	1.04
1968	65.7	67.6	64.3	1.05
1969	67.3	70.4	64.3	1.09
1970	67.9	71.0	64.9	1.09
1971	67.6	70.8	64.5	1.10
1972	69.2	73.8	64.7	1.14
1973	68.5	72.6	64.8	1.12
1974	68.7	71.4	66.5	1.07
1975	67.1	70.7	64.2	1.10
1976	65.3	68.8	62.7	1.10
1977	(62.5)*	——	——	——
1978	(63.6)*	——	——	——

Note: Killings by policemen in the line of duty and executions were excluded from homicide figures.

Black homicide figures for 1947-1949 actually refer to nonwhite homicide victims; the differences are negligible.

Sources: U.S. National Center for Health Statistics, Vital Statistics of the United States, annual issues for 1947-1977; U.S. NCHS, Monthly Vital Statistics Report, Advance Report Final Mortality Statistics, 1974; 1975; U.S. Bureau of the Census, Current Population Reports, Series P-25, nos. 311, 519, 614.

*Figures drawn from UCR's (U.S. FBI 1978; 1979).

until 1964, then increased sharply, from 57.5% in 1964 to a peak of 68.7% in 1974. Further, the percentage use of guns increased far more among blacks than among whites. Because over 90% of homicides are intraracial (U.S. FBI 1979, p. 10), the victim's race can be used to indicate offender's race with little error. Therefore vital statistics data on weapon use in homicide deaths can accurately indicate trends in the relative use of guns in homicides among whites and blacks. The percent of homicides committed with guns among blacks increased by 17 percentage points, from 56.8 to 73.8% between 1964 and 1972, while the increase was only 5.5 percentage points among whites over the same period.

Criminals' proportional use of guns increased in connection with aggravated assaults as well during this period, according to FBI data. While only 15% of aggravated assaults reported to the police in 1964 were committed with a gun, this figure reached a peak of 25.7% in 1973 (U.S. FBI, 1965;1974). Parallel figures on the percent of robberies which were armed robberies indicate an increase after 1967, peaking in 1972. Thus the use of guns by criminals in general was increasing from 1964 to the early-and mid-1970's.

There is also some indirect evidence that the frequency of the carrying of firearms and other weapons increased in a manner which almost exactly paralleled the trends in relative gun use in crimes. Arrests on illegal weapons charges rarely occur other than as a result of an arrest or search regarding some other crime, i.e. "incident" to some other matter (Bordua et al. 1979, Section III). Therefore, weapons arrests as a percentage of total arrests can serve as a rough indicator of the relative frequency with which police found persons searched to be illegally carrying weapons. Data for this indicator, presented in Table 8, show a sharp increase beginning in 1964 and a peak in 1974. If these trends regarding weapons in general apply to guns as well, it suggests that illegal carrying of firearms, as well as ownership of guns, increased during this period

Table 8. Weapon Carrying, 1960-78

% of total arrests which were for illegal weapons carrying, possession, etc.

Year		Year		
1960	0.96	1970	1.48	
1961	0.95	1971	1.56	
1962	0.97	1972	1.65	
1963	0.98	1973	1.72	
1964	1.03	1974	1.88	= peak
1965	1.08	1975	1.79	
1966	1.16	1976	1.53	
1967	1.32	1977	1.50	
1968	1.51	1978	1.54	
1969	1.54			

Source: U.S. FBI, 1961-79.

among those people most inclined to commit acts of violence. Thus the hypothesis that gun ownership among the violence-prone was increasing faster during the 1960's and 1970's than within the general population is consistently, albeit indirectly, supported.

Conclusions

The general level of gun ownership in our society has no direct effect on the homicide rate (although it has an indirect effect on homicide through its significant positive effect on robbery rates, which in turn positively affect homicide rates). How can such a statement be true when over 60% of the homicides committed in the U.S. in the last thirty years were committed with firearms? These seem to be mutually incompatible observations, especially to people who believe the latter fact to be prima facie evidence of the need for highly restrictive versions of gun control. Actually, a limited number of simple statements can summarize and tie together the available evidence in a way which makes it clear that there are no contradictions between these observations.

The following statements seem to be either supported by, or at least consistent with, the best available evidence regarding the effects of gun ownership on homicide rates:

(1) Most gun ownership is for legal purposes. Most of the guns owned are longguns, which are primarily owned for recreational reasons unrelated to crime. Only a tiny fraction of guns or gun owners are involved in crimes; this is true even for handguns.

(2) Gun ownership among the law-abiding has no effect on the homicide rate. Killers almost invariably have records of prior violence and it is a myth that guns are commonly used in family arguments and assaults between previously law-abiding people (see Kleck and Bordua, infra).

(3) From (2) and (3) we should expect that general levels of gun ownership should show no effect on the homicide rate, and this is indeed what our analysis has found.

(4) Ownership of guns among the violence-prone is related to homicide rates, because when an assault occurs (for reasons largely unrelated to gun ownership) it is somewhat more likely to produce a fatality if it involves a gun. However, we have no direct measure of such ownership levels; the only measure we do have is of general, largely noncriminal, ownership.

These conclusions imply that gun ownership among the law-abiding poses no direct risk of crime or violence to the community. Thus the only justification for disarming the mass of the population is for the sake of denying violence-prone persons easy access (presumably mostly through theft) to firearms owned by the law-abiding. In effect, the justification runs this way: we must deny guns to to the 99% of the population who will never commit a serious act of violence in their lives in order to produce some marginal reduction in the ease of access to guns among the 1% who will commit such an act. Understandably, the argument is rarely phrased quite so baldly by advocates of gun or handgun prohibition, or near approximations such as restrictive licensing.

On the other hand, these conclusions are prefectly compatible with more moderate gun control strategies, such as permissive licensing or laws restricting the open or concealed carrying of firearms. Such laws have the potential of being both just and at least modestly effective precisely because they are focussed and concentrated in their intended impact in a way which corresponds with the way in which the problem of violence, both gun and nongun, is focussed and concentrated. Violence is not uniformly or randomly distributed through the population, nor should its remedies be so distributed.

Regarding the effect of homicide and other crime on levels of gun ownership, our conclusions are straightforward. General levels of either gun ownership of all gun types, handguns only, or longguns only are all positively effected by crime rates. Either the homicide rate or the robbery rate shows a significant positive effect on gun ownership levels (although both cannot be included in the same equation and still show positive effects, due to the problem of multicollinearity). These aggregate-level findings accord well with the best of the individual-level studies, in particular that of Lizotte and Bordua (1980; Lizotte, et al. 1981), and with our components analysis of handgun increases in the period 1968-1978, which eliminated the alternative noncrime explanations offered by Wright (infra). It seems clear that, although most gun ownership is motivated by recreational and sport concerns, a significant fraction of it is oriented towards protection of the self, family, and home, and is a response to reported rates of crime, sometimes to prior victimization, and to the fear of victimization which these engender. The conclusions probably apply to both the law-abiding and the nonlaw-abiding, although no study of this subject has distinguished between the two groups. However, logically we would expect that if there is any difference between the two groups, it is the nonlaw-abiding whose gun ownership is most strongly motivated by victimization and fear of future victimization, simply because they are the most likely to live in dangerous neighborhoods, among people of dangerous as themselves.

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NOTES

1. Gun ownership increased from an estimated 38,127 guns per 100,000 resident population in 1950 to an estimated 43,061 in 1960, while homicide deaths from firearms declined from 2.75 per 100,000 resident population in 1950 to 2.57 in 1960, and total homicides per 100,000 resident population declined from 5.23 to 4.70 during the same period.

2. However, Williams and McGrath (1976, p. 28) controlled for "class", breaking it down into only two categories, low and high. They did not explain how class was measured.

3. The results in Lizotte and Bordua (1980) were erroneous, based on a faulty computer program. Their corrected results were presented in Lizotte, et al. (1981), and it is the corrected results which are discussed here.

4. This would require too much space to prove, but the reader may convince himself of it by attempting to create a set of percentages which would be inconsistent with the assertion.

5. This is derived from a 1968 Harris Poll (cited on p. 176 of Newton and Zimring 1969), which obtained the following distribution for households with handguns:

Number of handguns -	1	2	3	4	more than 4
% of households -	83	11	4	1	1

Assuming an average of eight handguns per household in the last category, the grouped men is 1.29.

6. Adding duck stamps is also redundant, since all those who use them to hunt ducks must also purchase a hunting license. Thus the duck stamp component adds nothing not already counted.

7. There are other problems as well. While Wright shows great enterprise in attempting to show what a large number of handguns are lost or deteriorate to inoperable condition (making dubious comparisons with other consumer durables like automobiles which have more moving parts, are more frequently used, have components made of less durable materials, etc.), he shows no corresponding enthusiasm for estimating uncounted *additions* to the gun stock, such as guns manufactured by private gunsmiths or amateurs, weapons smuggled into the country, or guns stolen from the military. (I have simply asumed losses equal uncounted additions.) Wright also counts "absorbed" handguns twice, e.g. by counting first the number of handguns absorbed by new households, and then counting those absorbed by new recreational shooters, including new recreational shooters who are also members of new households and who were therefore already counted.

8. See Kleck (1979) for further details, and Johnston (1972, pp. 341-420) for an explanation of simultaneous equations methods.

9. For other limitations of the data covering 1947-1968, see Newton and Zimring (1969, pp. 171-72). Data on gun production and importation after 1972

were gathered by the U.S. Bureau of Alcohol, Tobacco and Firearms, and do cover "actions." Sources of data for the other variables in this analysis may be obtained by writing to the author.

10. The rationale for converting the variables into natural logs can be found in Kleck (1979, pp. 896-97, 904-5). It is sufficient to say here that the natural log form of the equations produces a better fit to the data, as measured by the sum of the squared residuals, compared to the equations with variables expressed in their ordinary natural values. Total guns is the sum of longguns (rifles and shotguns) and handguns. Both longguns and handguns per capita cannot be included in the same equation because of their high collinearity. (Their zero-order correlation is 0.97.)

11. The Durbin-Watson statistic is itself biased in the presence of autocorrelated residuals when there are lagged endogenous variables included in the equations, as is the case here. While there is no basis in statistical theory for applying the D-W test, simulation studies by Taylor and Wilson (1964) have shown that it nonetheless is quite powerful in detecting autocorrelation in such situations when the upper value of d was used to define the critical region for the test. This is what was done in the present study. The 1% upper limit for the statistic (n=32) is 1.69. Nearly all of the D-W values exceed this, and thus the null hypothesis of no autocorrelation rarely had to be rejected, although there is a possibility of autocorrelation in some of the gun equations.

12. The reader will notice that the adjusted R^2 statistic reported in connection with ordinary least-squares estimation is not reported here. This is because the R^2 statistic for structural equations estimated with two-stage least-squares is not directly relevant or meaningful for such equations in the same way it is for ordinary least-squares. In fact, the structural equation R^2 can approach infinity or even take on negative values (Bassman 1962). The adjusted R^2 (corrected for degrees of freedom) for the first stage homicide equations was invariably at least .99.

13. With ordinary least-squares estimation, this ratio would be a t-ratio, but since the small sample properties of the TSLS estimator are not defined, the ratio is assumed to have a normal distribution and is therefore called a z-ratio. A z-ratio of 1.645 or higher is significant at the 5% level (one-tailed test), while a value of 1.282 is significant at the 10% level.

14. There could be an identifiability problem with our model. If is underidentified, coefficients can be biased, ~~even to the~~ possibly enough to produce estimated coefficients which appear significant when they are not, or even to reverse their sign (Johnston 1972). In order to avoid this problem, we must include in the model variables which can reasonably be expected to directly affect H, the homicide rate, but not G, the level of gun ownership, and variables which directly affect G but not H. (Such variables are called "instruments.") While we have the former (e.g. C, I), it is debateable whether we have the latter. Virtually no variable for which national data are available affects G without also having some possibility of directly affecting H as well. In our earlier study (Kleck 1979), S, the hunting license holder rate, served as a good instrument, since it should directly affect G but not H. However, for the 1947-1978 data set it proved unrelated to G. It is unclear whhther F, median family income is an adequate instrument; although it clearly should affect G since it measures the population's capacity to buy goods, including firearms, it could conceivably affect H as well. Although not itself a measure of poverty, it is [illegible] related, and poverty, as measured by P, certainly is ~~related to hom~~ directly related to homicide. ~~Although~~ Without alternative instruments to try out and no a priori theortetical certainty about what variables do or do not affect H and G, we cannot definitively say whether the model is underidentified and thus this paper's conclusions regarding the relationship between the two variables are necessarily tentative in direct proportion to our uncertainty on this point.

HOMICIDES, ROBBERIES AND STATE "COOLING-OFF" SCHEMES: A PRELIMINARY ANALYSIS

Associate Professor
Joseph P. Magaddino

and
Associate Professor
Marshall H. Medoff

Sept. 14, 1981

California State University
Department of Economics
Long Beach, California 90840

Any empirical study which attempts to analyze the effect of extending the time period required to purchase a handgun by a consumer (i.e., the so-called "cooling-off" period) must focus on past legislation. Analysis of such a law may be approached in, at least, two different ways. First, one could examine any individual state, county, city or other jurisdiction that has experienced a legislative change and analyze the homicide rate and robbery rate for a statistically adequate period of time before and after the legislative change. Alternatively, one could examine the homicide and robbery rate of different jurisdictions having differing laws governing the form, length or existence of a waiting period. Both methods require the researcher to identify and control for variations in other factors which affect these crime rates. In our time series study of the homicide rate, "Handguns, Homicides and the Gun Control Act of 1968,"[1] and our cross-sectional study of homicide and robbery, "Firearm Control Laws and Violent Crimes: An Empirical Analysis,"[2] we strongly suggest that variations in these crime rates are complex relationships involving many intervening variables.

Given the above caveat we performed a preliminary investigation of the relationship between different state "cooling-off" laws and the rate of homicides and robberies per 100,000 residents within a state using simple correlation analysis. Table 1 divides the fifty states into six legislative categories: (1) Firearm Ownership Identification Document (FOID), states where prospective handgun purchasers are screened prior to purchase; (2) states which have adopted FOID plus a waiting period; (3) cooling-off period accompanied by a police check prior to the purchase of a handgun; (4) a simple cooling-off period with no sales information reported to the local police; (5) no waiting period but sales information reported to the police; and (6) quick sales (i.e., no waiting period and no sales information reported to the local police). The taxonomy of laws arrayed in Table 1 are the state codes for 1979 and do not include any legislative changes since 1979.

Tables 2 and 3 show the simple correlation coefficients between legislative categories and the homicide and robbery rates per 100,000 residents as compiled by the Federal Bureau of Investigation, Uniform Crime Reports, 1979, respectively. As can be seen from Table 2, the correlation coefficients are numerically small and statistically not significantly different from zero at conventional levels of significance used in social science research. This suggests that there does not appear to be any relationship, positive or negative, between the various legislative schemes and the homicide rate. While the correlation coefficients for robbery are higher than those of homicide, in all cases except in the case of Firearm Owners Identification Document states, they are not statistically different from zero. Again, implying no relationship between these laws and the robbery rate. In the FOID states, the correlation coefficient is positively related indicating the possibility of a perverse relationship between this type of legislation and the robbery rate. Alternatively it may be that states with high robbery rates are more likely to adopt FOID legislation.

On the basis of the above limited statistical information, the results indicate that the various legislative schemes have little, if any, relationship to the variation in state homicide and robbery rates. We cannot emphasize too strongly that the above statistical analysis is merely a preliminary investigation of the effectiveness of waiting period legislation since homicide and robbery are highly complex problems which are not easily amenable to simple correlation analysis.

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Joseph P. Magaddino and Marshall H. Medoff

2 "Firearm Control Laws and Violent Crimes: An Empirical Analysis", in Firearms and Violence: Issues of Regulation, edited by Don B. Kates, Jr. (Ballinger Press: 1982)

1 "Handguns, Homicides and the Gun Control Act of 1968" in Firearms and Violence: Issues of Regulation, edited by Don B. Kates, Jr. (Ballinger Press: 1982)

Note: FOID is an acronym to designate those states that require civilians to obtain some type of a police-approved handgun-purchase/possession permit before ownership is transferred. A photo I.D. card is not necessarily issued, but the gun seller must be shown the police-issued handgun-purchase/possession permit prior to the sale.

STATE COOLING-OFF SCHEMES

	(A) FOID (prior police okay)	(B) FOID + COOLING-OFF PERIOD	(C) COOLING-OFF w/POLICE CHECK	(D) COOLING-OFF ONLY (no sales reported)	(E) SALES REPORTED TO POLICE (no wait)	(F) QUICK-SALE (no wait; no sales reported)
Alabama			2 days			
Alaska						0 days
Arizona						0 days
Arkansas						0 days
California			15 days			
Colorado						0 days
Conneticut			14 days			
Delaware						0 days
Florida					X	
Georgia						0 days
Hawaii	X					
Idaho						0 days
Illinois		X+3days				
Indiana			7 days			
Iowa	X					
Kansas						0 days
Kentucky					X	
Louisiana						0 days
Maine						0 days
Maryland			7 days			
Massachusetts	X					
Michigan	X					
Minnesota			7 days			
Mississippi					X	
Missouri	X					
Montana						0 days
Nebraska						0 days
Nevada			3 days			
New Hampshire					X	
New Jersey		X+7days				
New Mexico						0 days
New York	X					
North Carolina	X					
North Dakota					X	
Ohio						0 days
Oklahoma						0 days
Oregon			5 days			
Pennsylvania			3 days			
Rhode Island			3 days			
South Carolina					X	
South Dakota			2 days			
Tennessee			15 days			
Texas						0 days
Utah						0 days
Vermont						0 days
Virginia						0 days
Washington			3 days			
West Virginia					X	
Wisconsin				2 days		
Wyoming						0 days

FOID: Is an acronym to designate those states that require civilians to obtain some type of a police-approved handgun-purchase/possession permit before ownership is transferred.

TABLE 2. HOMICIDE RATES AND WAITING PERIOD LEGISLATION, 1979.

Legislative Category	Correlation Coefficient	T-Statistic
FOID*	-.0044	-.0305
FOID plus cooling-off	.0280	.1941
Cooling-off with Police Check	-.0637	-.4419
Cooling-off	-.1514	-1.0608
Sales Reported to Police	.0375	.2601
Quick Sale	.0804	.5588

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* FOID = Firearm Owners Identification Document

TABLE 3: ROBBERY RATES AND WAITING PERIOD LEGISLATION, 1979.

Legislative Category	Correlation Coefficient	T-Statistic
FOID*	.3198	2.3383
FOID plus cooling-off	.1690	1.1881
Cooling-off with Police Check	.2325	1.6559
Cooling-off	-.1104	-.7696
Sales Reported to Police	-.2303	-1.6394
Quick Sale	-.2217	-1.5753

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* FOID = Firearm Owners Identification Document

ROBBERY
(1979)

Number	(A) FOID (prior police okay)	(B) FOID COOLING-OFF PERIOD	(C) COOLING-OFF w/POLICE CHECK	(D) COOLING-OFF ONLY (no sales reported)	(E) SALES REPORTED TO POLICE (no wait)	(F) QUICK-SALE (no wait; no sales reported)
Alabama			4,127			
Alaska						455
Arizona						4,305
Arkansas						1,626
California			75,767			
Colorado						4,353
Connecticut			6,021			
Delaware						753
Florida					22,097	
Georgia						10,939
Hawaii	1,688					
Idaho						392
Illinois		22,235				
Indiana			7,167			
Iowa	1,457					
Kansas						2,423
Kentucky					3,247	
Louisiana						8,832
Maine						349
Maryland			13,740			
Massachusetts	11,724					
Michigan	20,218					
Minnesota			3,754			
Mississippi					1,702	
Missouri	10,267					
Montana						260
Nebraska						1,157
Nevada			2,861			
New Hampshire					254	
New Jersey		18,332				
New Mexico						1,502
New York	93,471					
North Carolina	4,327					
North Dakota					65	
Ohio						20,909
Oklahoma						2,966
Oregon			3,299			
Pennsylvania			17,855			
Rhode Island			1,019			
South Carolina					3,156	
South Dakota			140			
Tennessee			7,277			
Texas						25,667
Utah						1,062
Vermont						141
Virginia						5,799
Washington			4,739			
West Virginia					825	
Wisconsin				2,857		
Wyoming						190
Subtotal	143,152	40,567	147,766	2,867	31,346	94,070
÷ pop. (million)	46.923	18.562	68.073	4.720	21.147	60.021
Average rate per 100,000 pop.	305.1	218.5	217.1	60.5	148.2	156.7

ROBBERY (1979) *(rates per 100,000 pop.)*	(A) FOID (Prior police okay)	(B) FOID + COOLING-OFF PERIOD	(C) COOLING-OFF w/POLICE CHECK	(D) COOLING-OFF ONLY (no sales reported)	(E) SALES REPORTED TO POLICE (no wait)	(F) QUICK-SALE (no wait; no sales reported)
Alabama			109.5			
Alaska						109.6
Arizona						175.7
Arkansas						74.6
California			333.8			
Colorado						157.0
Conneticut			193.3			
Delaware						129.4
Florida					249.4	
Georgia						213.7
Hawaii	184.5					
Idaho						43.3
Illinois		198.0				
Indiana			132.7			
Iowa	50.2					
Kansas						102.3
Kentucky					92.1	
Louisiana						219.4
Maine						31.8
Maryland			331.2			
Massachusetts	203.2					
Michigan	219.6					
Minnesota			92.5			
Mississippi					70.7	
Missouri	210.9					
Montana						33.1
Nebraska						73.5
Nevada			407.5			
New Hampshire					28.6	
New Jersey		250.0				
New Mexico						121.0
New York	529.6					
North Carolina	77.2					
North Dakota					9.9	
Ohio						194.8
Oklahoma						102.6
Oregon			130.6			
Pennsylvania			152.2			
Rhode Island			109.7			
South Carolina					107.6	
South Dakota			20.3			
Tennessee			166.1			
Texas						191.8
Utah						77.7
Vermont						28.6
Virginia						111.6
Washington			120.7			
West Virginia					43.9	
Wisconsin				60.5		
Wyoming						42.2
AVERAGE	305.1	218.5	217.6	60.5	148.2	156.7

Source: F.B.I. Uniform Crime Reports: 1979.

HOMICIDE (1979) Number	(A) FOID (prior police okay	(B) FOID COOLING-OFF PERIOD	(C) COOLING-OFF w/POLICE CHECK	(D) COOLING-OFF ONLY (no sales reported)	(E) SALES REPORTED TO POLICE (no wait)	(F) QUICK-SALE (no wait; no sales reported)
Alabama			496			
Alaska						54
Arizona						219
Arkansas						198
California			2,952			
Colorado						161
Connecticut			131			
Delaware						33
Florida					1,084	
Georgia						877
Hawaii	66					
Idaho						49
Illinois		1,203				
Indiana			488			
Iowa	65					
Kansas						130
Kentucky					335	
Louisiana						682
Maine						31
Maryland			406			
Massachusetts	212					
Michigan	834					
Minnesota			93			
Mississippi					302	
Missouri	543					
Montana						33
Nebraska						65
Nevada			123			
New Hampshire					21	
New Jersey		484				
New Mexico						154
New York	2,092					
North Carolina	600					
North Dakota					10	
Ohio						865
Oklahoma						281
Oregon			107			
Pennsylvania			724			
Rhode Island			30			
South Carolina					368	
South Dakota			14			
Tennessee			430			
Texas						2,235
Utah						66
Vermont						7
Virginia						447
Washington			187			
West Virginia					128	
Wisconsin				160		
Wyoming						41
Subtotal	4,412	1,687	6,141	160	2,248	6,628
÷ pop. (million)	46.923	18.562	68.073	4.720	21.147	60.021
Average rate per 100,000 pop.	9.4	9.09	9.02	3.39	10.63	11.04

HOMICIDE (1979) *(rates per 100,000 pop.)*	*(A)* FOID (prior police okay)	*(B)* FOID + COOLING-OFF PERIOD	*(C)* COOLING-OFF w/POLICE CHECK	*(D)* COOLING-OFF ONLY (no sales reported)	*(E)* SALES REPORTED TO POLICE (no wait)	*(F)* QUICK-SALE (no wait; no sales reported)
Alabama			13.2			
Alaska						13.3
Arizona						8.9
Arkansas						9.1
California			13.0			
Colorado						5.8
Conneticut			4.2			
Delaware						5.7
Florida					12.2	
Georgia						17.1
Hawaii	7.2					
Idaho						5.4
Illinois		10.7				
Indiana			8.3			
Iowa	2.2					
Kansas						5.5
Kentucky					9.5	
Louisiana						16.9
Maine						2.8
Maryland			9.8			
Massachusetts	3.7					
Michigan	9.1					
Minnesota			2.3			
Mississippi					12.6	
Missouri	11.2					
Montana						4.2
Nebraska						4.1
Nevada			17.5			
New Hampshire					2.4	
New Jersey		6.6				
New Mexico						12.4
New York	11.9					
North Carolina	10.7					
North Dakota					1.5	
Ohio						8.1
Oklahoma						9.7
Oregon			4.2			
Pennsylvania			6.2			
Rhode Island			3.2			
South Carolina					12.6	
South Dakota			2.0			
Tennessee			9.8			
Texas						16.7
Utah						4.8
Vermont						1.4
Virginia						8.6
Washington			4.8			
West Virginia					6.8	
Wisconsin				3.4		
Wyoming						9.1
AVERAGE	9.4	9.09	9.02	3.4	10.6	11.04

Source: F.B.I. Uniform Crime Reports: 1979.

1979

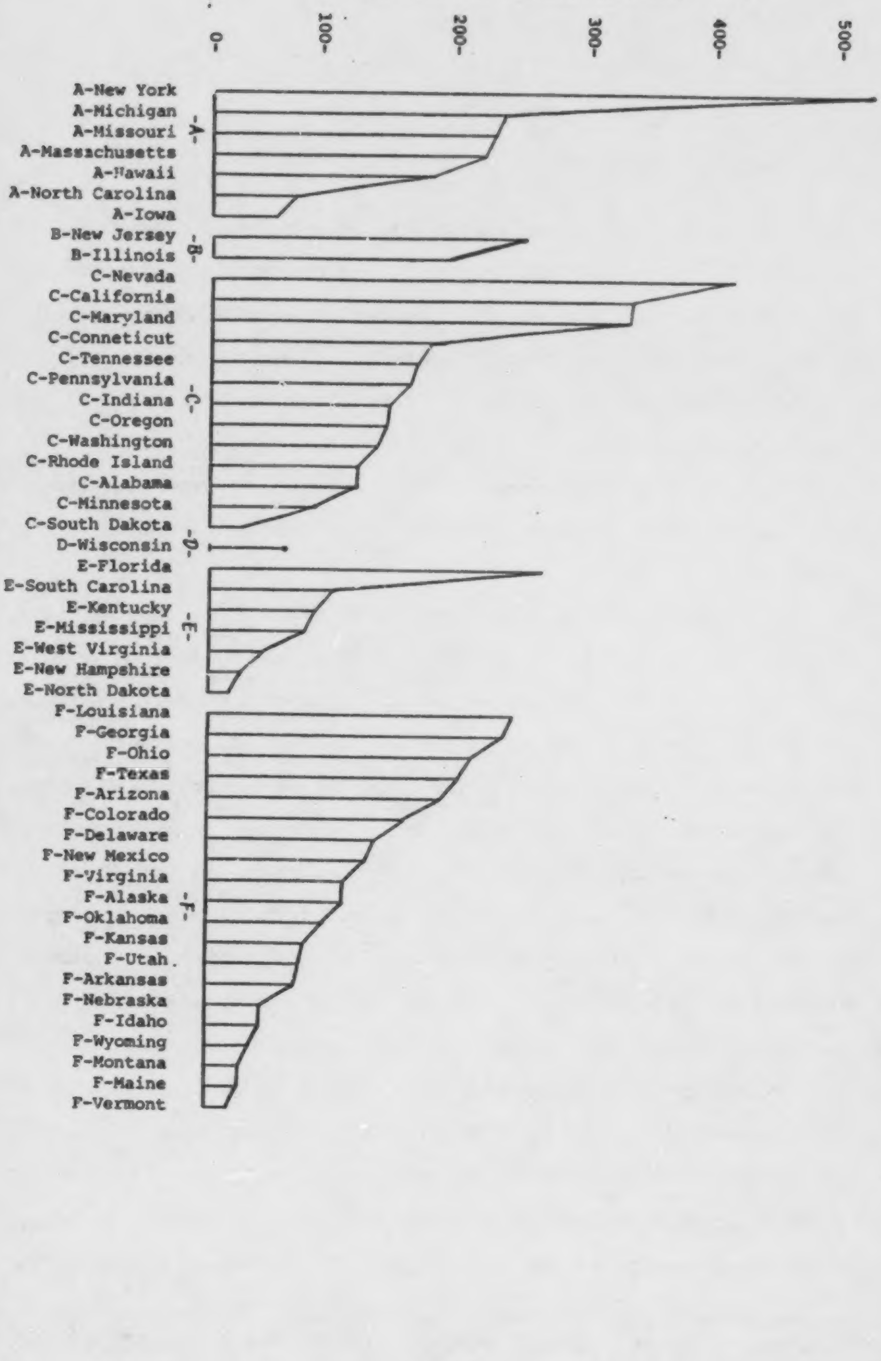
ROBBERIES PER 100,000 Pop.;		Waiting Period
1,395.6	Washington, DC	(no handgun sales)*
529.6	New York	FOID
407.5	Nevada	3 days
333.8	California	15 days
331.2	Maryland	7 days
250.0	New Jersey	FOID+7days
249.4	Florida	0 days
219.6	Michigan	FOID
219.4	Louisiana	0 days
213.7	Georgia	0 days
212.1	U.S. average	0 days
210.9	Missouri	FOID
203.2	Massachusetts	FOID
198.0	Illinois	FOID+3days
194.8	Ohio	0 days
193.3	Conneticut	14 days
191.8	Texas	0 days
184.5	Hawaii	FOID
175.7	Arizona	0 days
166.1	Tennesee	15 days
157.0	Colorado	0 days
152.2	Pennsylvania	3 days
132.7	Indiana	7 days
130.6	Oregon	5 days
129.4	Delaware	0 days
121.0	New Mexico	0 days
120.7	Washington	3 days
111.6	Virginia	0 days
109.7	Rhode Island	3 days
109.6	Alaska	0 days
109.5	Alabama	2 days
107.6	South Carolina	0 days
102.6	Oklahoma	0 days
102.3	Kansas	0 days
92.5	Minnesota	7 days
92.1	Kentucky	0 days
77.7	Utah	0 days
77.2	North Carolina	FOID
74.6	Arkansas	0 days
73.5	Nebraska	0 days
70.7	Mississippi	0 days
60.5	Wisconsin	2 days
50.2	Iowa	FOID
43.9	West Virginia	0 days
43.3	Idaho	0 days
42.2	Wyoming	0 days
33.1	Montana	0 days
31.8	Maine	0 days
28.6	Vermont	0 days
28.6	New Hampshire	0 days
20.3	South Dakota	2 days
9.9	North Dakota	0 days

HOMICIDES PER 100,000 Pop.;		Waiting Period
31.8	Washington, DC	(no handgun sales)
17.5	Nevada	3 days
17.1	Georgia	0 days
16.9	Louisiana	0 days
16.7	Texas	0 days
13.3	Alaska	0 days
13.2	Alabama	2 days
13.0	California	15 days
12.6	Mississippi	0 days
12.6	South Carolina	0 days
12.4	New Mexico	0 days
12.2	Florida	0 days
11.9	New York	FOID
11.2	Missouri	FOID
10.7	Illinois	FOID+3days
10.7	North Carolina	FOID
9.8	Maryland	7 days
9.8	Tennessee	15 days
9.7	U.S. average	0 days
9.7	Oklahoma	0 days
9.5	Kentucky	0 days
9.1	Arkansas	0 days
9.1	Michigan	FOID
9.1	Wyoming	0 days
8.9	Arizona	0 days
8.6	Virginia	0 days
8.3	Indiana	0 days
8.1	Ohio	0 days
7.2	Hawaii	FOID
6.8	West Virginia	0 days
6.6	New Jersey	FOID+7days
6.2	Pennsylvania	3 days
5.8	Colorado	0 days
5.7	Delaware	0 days
5.5	Kansas	0 days
5.4	Idaho	0 days
4.8	Washington	3 days
4.8	Utah	0 days
4.2	Conneticut	14 days
4.2	Montana	0 days
4.2	Oregon	5 days
4.1	Nebraska	0 days
3.7	Massachusetts	FOID
3.4	Wisconsin	2 days
3.2	Rhode Island	3 days
2.8	Maine	0 days
2.4	New Hampshire	0 days
2.3	Minnesota	7 days
2.2	Iowa	FOID
2.0	South Dakota	2 days
1.5	North Dakota	0 days
1.4	Vermont	0 days

*Washington, DC data is excluded from analysis in main report; it is presented here for domestic-crime comparison.

Source: (crime data) F.B.I. Uniform Crime Reports: 1979.

ROBBERIES PER 100,000 Population - 1979



Handguns, Homicides And The Gun Control Act of 1968*

by

Joseph P. Magaddino and Marshall H. Medoff

Department of Economics
California State University
Long Beach, California

In 1968, the U.S. Congress enacted statutes governing the possession, transfer and manufacture of various types of firearms and destructive devices. This body of legislation was the first substantial change in firearm control since the enactment of the Federal Firearms Act of 1934. Passage of this legislation represented the culmination of five years of public debate on firearm control during a decade marked by civil disorders, political assassinations and increasing rates of violent crimes. Proponents of this legislation viewed it as a means of counteracting the rising rates of violent crimes.

The purpose of this study is to analyze the impact of the Gun Control Act of 1968. Specifically, we will address (a) whether, and to what extent, the Gun Control Act of 1968 affected the rate of handgun acquisition, (b) analyze the impact of the Gun Control Act of 1968 upon the homicide rate, and (c) examine the relationship between violent crime and the availability of handguns. The first section of this study briefly describes the Gun Control Act of 1968 and points out how the legislation attempted to reduce the availability of handguns. Section II measures the impact of the Gun Control Act upon handgun purchases. Following the suggestion of Wright (1982), handguns are treated as any other durable good. A single equation model is used to estimate the impact that various socioeconomic factors, high crime rates and the Gun Control Act of 1968 have had upon handgun acquisition (i.e., yearly handgun purchases). Since one may argue that, in addition to controlling handgun acquisition, the Gun Control Act of 1968 also attempted to reduce the number or rate of homicides, in the third section of the paper a structural model (i.e., a system of equations) of the criminal choice-criminal justice system is developed and estimated. The advantage of this modelling is that it explicitly treats homicides as a complex problem by focusing not only on the variables affecting criminal behavior but, also, upon society's response to that behavior in terms of the probability of being arrested and convicted; the punishment meted out; firearm acquisition; expenditures on law enforcement activities; and so forth. By accounting for the interdependencies between homicide, the deterrent effects of the criminal justice system and handgun acquisition, one is able to isolate the impact the Gun Control Act of 1968 had on the homicide rate. The structural system of equations also provides the opportunity to take into account the mutual interaction between handgun acquisition (i.e., yearly handgun purchases) and the homicide rate. To control for this possibility the handgun acquisition equation was reestimated within the context of the structural system of equations and compared to the Section II results which ignored this joint interaction and only viewed handgun acquisition as being a reaction to rising crime rates. The last section, summarizes and reflects upon the policy implications of this research.

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*This paper is one of a series of papers which will appear in Firearms and Violence: Issues of Regulation edited by Don B. Kates, Jr. (Ballinger Press: 1982). We wish to thank Don B. Kates, Jr. and Professor Charles L. Cole for comments on an earlier draft of this paper.

I. THE GUN CONTROL ACT OF 1968

The assassination of President Kennedy and the urban violence of the 1960's dramatically called attention to the role and use of firearms in American society. These events, followed by the assassinations of Martin Luther King and Robert Kennedy, provided the major impetus for enactment of federal firearms control in 1968. The necessity for controlling weapons in the eyes of the 90th Congress was reflected in the language describing the statute's objectives:

> (1) provide support to Federal, State and local law enforcement officials in their fight against crime and violence . . . (2) the ease with which any person can acquire firearms . . . is a significant factor in the prevalence of lawlessness . . . (3) there is a causal relationship between the easy availability of firearms . . . and . . . youthful criminal behavior and (4) the large volume of relatively inexpensive pistols and revolvers (including military surplus weapons) imported into the United States has contributed greatly to lawlessness and the Nation's law enforcement problem. (18 U.S.C.A. 8 921 p. 104).

To address these issues, the Gun Control Act of 1968 contained three major provisions:

Licensing:

The federal licensing of individuals to manufacture or deal in firearms and a ban on all interstate transportation of weapons to or from individuals who were not licensed by the U.S. Department of the Treasury as dealers, manufacturers, importers or collectors.[1] The ban on interstate transportation was the focal point of this legislation in that it attempted to assist State and local law enforcement efforts. It has been a long and widely held belief that jurisdictions with strict laws governing the acquisition and ownership of firearms had their efforts undermined if neighboring jurisdictions had easy firearm access. To remedy this shortcoming of federalism, the Act required dealers to verify whether a customer was a state resident. Dealers were required to record all sales and deliveries with the name, age, place of residence of the purchaser and a complete description of the weapon sold. These records were to be kept at the licensee's place of business and were to be made available to the U.S. Department of Treasury or to local and State police upon request of the Secretary of the Treasury. Many viewed the record-keeping provision of the Act as an attempt to enhance law enforcement information and ultimately increase the probability of apprehension of all criminals who use firearms in their crimes.[2]

Prohibitions

Licensees were prohibited from knowingly transfering particular firearms or ammunition to certain groups classified as irresponsible or potentially dangerous. Specifically denied access were: all persons eighteen years or under from the purchase or possession of any firearm or ammunition; all persons under twenty-one years of age from the purchase [redacted] of a handgun; all persons who are under indictment, convicted felons, fugitives from justice, drug addicts and users (including marijuana), mentally defective or committed individuals, from the purchase or possession of any firearm or ammunition. The enforceability of this provision of the Act is ex post in nature. An individual seeking to purchase a firearm is required to sign a statement that he does not fall within any of the above described classes. An ineligible individual could purchase a firearm by supplying false information. However, the record-keeping requirements made it possible for law enforcement officials to prosecute such an individual if apprehended with a firearm.

Import Restrictions

The importation of relatively inexpensive firearms was prohibited unless the Secretary of the Treasury certified the firearm was being imported for scientific, research or training purposes, as a curio or museum piece, or was particularly suitable or readily adaptable to sporting purposes. The importation ban was expressedly designed to reduce access to foreign-produced, low-priced handguns.[3] In limiting availability of the so-called "Saturday Night Special," Congress was attempting to control a weapon which they perceived as being cheap, plentiful and a significant cause of escalating rates of violent crime.

II. HANDGUN OWNERSHIP AND THE IMPACT OF THE GUN CONTROL ACT OF 1968

Since one of the expressed purposes of the Gun Control Act of 1968 was to reduce the availability of handguns, it is of interest to question what impact the law had on the rate of civilian handgun acquisition. Implicit in much of the discussion of gun control is that no one would purchase a handgun other than to use it in the commission of a crime. This assumes that the purchase of a weapon is somehow different from the purchase of any other kind of consumer durable good. James Wright (1982) suggests that the examination of handgun purchases should be treated identically to the methodology one follows in examining the purchases of any other consumer durable good. This line of reasoning suggests the following relationship[4] to measure the impact of the Gun Control Act of 1968 on civilian purchases of handguns:

$$\begin{aligned} (1) \quad \log H1_t &= a_0 + a_1 \log YP_t + a_2 \log HTL_t + a_3 \log A2549_t \\ &+ a_4 \log NW_t + a_5 \log OVC_{t-1} + a_6 T_t \\ &+ a_7 \log H2_{t-1} + a_8 ACT \qquad t = 1947\text{-}1977. \end{aligned}$$

The dependent variable, $H1_t$, is defined as the number of handguns purchased per thousand resident civilian population in period t. YP_t is the real permanent income per capita and, assuming handguns are a normal good, one would anticipate a positive relationship between permanent income and handgun purchases. To measure the sporting use of handguns, hunting licenses per thousand resident civilian population, HTL_t, is included. It might be argued that handguns are of little value in hunting. However, hunting licenses may be a proxy for outdoor recreation. If the trend in "outdoor recreation" is representative of other recreational activities, then this variable should be positively related to handgun purchases regardless of whether handguns *per se* are valuable hunting weapons. Alternatively, one might argue that handguns represent a hunting weapon or that individuals with hunting licenses are also likely to purchase handguns (Wright, 1982). In either case, one would anticipate a positive relationship between hunting licenses and handgun purchases.

To account for sociodemographic variation over time, the percentage of the population between the ages of twenty-five and forty-nine, A2549, and the proportion of non-whites in the residential civilian population, NW_t, are included. The inclusion of NW_t deserves special comment. In attempting to explain variations in handgun purchases over time, one needs to control for possible variations in behavior between rural and urban areas. Ideally, one should include the fraction of the population in urban areas as an independent variable. Because available data on urban population are not sufficient for estimation, we use the proportion of nonwhites as a crude proxy for urbanization.[5]

To test whether or not individuals purchase handguns as a reaction to violent crimes the aggregation of the seven major violent crimes[6] occurring in the previous period, OVC_{t-1}, is included in the regression. If one of the primary motivations for handgun acquisition is self protection then one would anticipate a positive relationship between the rate of criminal activity in the previous period and the rate of handguns purchases in the current period. The variable T is included to measure the trend variation over time. The additional purchases of handguns is also dependent upon the stock of handguns held at the beginning of the current period. The variable, $H2_{t-1}$, is the cumulative number of handguns per thousand resident civilian population held in period t-1. Other things being equal, the larger the existing stock, the lower the purchases of handguns will be. Finally, the variable ACT is included to measure the impact of the Gun Control Act of 1968 being equal to zero for the years 1947-1968 and one thereafter. If the Gun Control Act of 1968 was successful in achieving its expressed goal of reducing the availability of handguns, then one would anticipate a negative relationship between the variable Act and handgun acquisition.

Equation (1) is estimated using ordinary least squares and the results are exhibited in Table 1.[7] Permanent income, hunting licenses and urbanization are found to have a positive and significant effect on handgun purchases. While the fraction of the population between twenty-five and forty-nine is positive it is not statistically different from zero. Handgun purchases are found to be significantly and inversely related to the stock of handguns at the beginning of the period. The time trend variable indicates that there has been, ceteris paribus, a statistically significant decline in the handgun purchases per thousand resident civilian population.[8] Furthermore, it appears that handgun purchases are systematically related to rising violent crime rates.

Finally, if the primary attempt of the Gun Control Act of 1968 was to reduce the purchase of handguns, then the regression results indicate that the Act has not only failed to achieve this desired result but there has been a significant increase in handgun purchases since its enactment. It is possible that the buying populace forms adaptive expectations about the potential for future restrictive legislation. If this is so, then anticipating more restrictive legislation encouraged the populace to purchase more handguns after the passage of the Act.

This result does not necessarily imply that the Gun Control Act has been a

TABLE 1

REGRESSION TABLE FOR HANDGUN PURCHASES: 1947-1977

Independent Variables	Coefficient[a]
Constant	-65.059 (-5.01)***
log YP_t	7.312 (3.52)***
log HTL_t	2.557 (2.28)***
log $A2549_t$	4.816 (1.60)
log NW_t	14.398 (2.31)**
log OVC_t	1.267 (2.34)**
T	-.185 (-2.61)***
log $H2_{t-1}$	-6.664 (-3.88)***
ACT	.327 (2.09)***
R^2(adj)	.971

[a] The number in parentheses below the coefficient is the value of the t-statistic: ***significant at .01 level; **significant at .05 level.

failure; it is possible that the firearm control legislation selectively reduced the rate of handgun ownership among the high risk users. If the rate of handgun ownership was reduced among the high risk users, even though an overall increase in "legitimate" user purchases occurred, then the proper test of impact of the Gun Control Act is to examine its effect on homicide and not handgun acquisition alone.[9]

III. THE STRUCTURAL MODEL

Zimring (1975), in a widely cited study, qualitatively analyzed the Gun Control Act of 1968 by focusing on the rate of growth of handgun homicides and firearm assaults over the 1966-1973 period. His results indicated that the Act was marginally effective in reducing the percentage of homicides attributable to handguns and the number of assaults attributable to firearms.

There are several difficulties with the approach adopted by Zimring. To infer a change in the rate of growth of the selected variables is a function of the Gun Control Act of 1968, implicitly argues that all other variables affecting the rates of crime remain relatively the same over the period of investigation. However, a study of the time trend of the variables one normally would associate with violent crime fails to substantiate Zimring's implicit assumption. Furthermore, Zimring results are based on an investigation of 57 cities with populations of 250,000 or more. Unfortunately, his sampling procedure excluded 21 states and since the population in the excluded states are less urbanized, Zimring's procedure is biased toward states with lower firearm ownership rates than states with higher firearm ownership rates. More importantly, Zimring's methodology totally ignores differences in the effectiveness of law enforcement agencies, the judicial system and other factors in the criminal justice system. Consequently, his results must be regarded as tenuous.

To test the impact of the Gun Control Act of 1968 on the homicide rate one must account for the many variables besides gun availability which influence crimes in order to isolate the effects of the legislation. A structural model based on the economic framework of criminal choice developed by Becker (1968) was formulated and estimated for U.S. data over the period 1947-1977 period. The advantage of the structural model over the approach adopted by Zimring is that it explicitly treats the homicide rate as a complex problem by incorporating the deterrent effect of the criminal justice system. It focuses not only on the variables affecting criminal behavior but, also, upon society's reaction to that behavior in terms of the probability of being arrested and convicted; the punishment meted out; firearm acquisition; expeditures on law enforcement; etc. The basic structural model of equations (equations 2-8), except for the handgun equation, is the model developed by Hoenack and Weiler (1980).[10]

B. Description and Theoretical Justification of the Equations in the Structural Model

The Murder Supply Function

$$Q/N = a_{10} + a_{11} \log Pa + a_{12} \log Pc \mid a + a_{13} \log Pe \mid c + a_{14} \log A1419 + a_{15} \log L + a_{16} \log YP + a_{17} T + a_{18} \log ALC + a_{19} \log H + a_{1,10} ACT \quad (2)$$

The dependent variable, Q/N, was the number of observed murders per thousand resident civilian population. The variables Pa, Pc | a, and Pe | c represent the deterrent effects of the criminal justice system being equal to the perceived probability of arrest, the conditional probability of being convicted given arrest, and the conditional probability of being executed given conviction, respectively. Economic theory suggests that an increase in the probability or severity of various punishments for murder will decrease (relative to the expected utility from an alternative independent activity) the expected utility from murder or from activities that may result in murder (Ehrlich 1975). The percentage of the population between the ages of fourteen and nineteen, A1419, is included to test whether the differential treatment of juvenile offenders has any effect on the supply of violent crime. Permanent income, YP, is a measure of the marginal returns to illegal activities. The greater the permanent income of the society, the larger the payoff to illegal activities. Labor force participation, L, is included to take into account that higher rates of labor force participation implies, ceteris paribus, less time to engage in illegitimate activities. The variable T is included to measure the trend variation over time. Many have argued alcohol consumption reduces inhibitions, impairs the ability to reason, etc., and thereby increases the degree of violent behavior among some groups of individuals (Kates 1982). To account for this behavior, alcohol consumption in gallons per person aged fifteen and above, ALC, is included to test this hypothesis. Two separate measures of handgun availability, H, are employed. The yearly handgun purchases per thousand resident civilian population, H1, is introduced to test Zimring's (1975) hypothesis that the rate at which new handguns enter the market has a greater impact on homicide rates than older handguns. The cumulative number of handguns per thousand resident civilian population, H2, is used to test whether the cumulative number of handguns available affects the homicide rate. With either measure H1 or H2, conventional thinking posits a positive relationship between between these variables and the murder rate. The variable ACT was added to equation (2) to test whether or not the Gun Control Act of 1968 selectively reduced the availability of handguns to high risk users. If the Gun Control Act achieved its expressed objective then this legislation would have lowered the rate of homicides in the post 1968 period. As before, Act is measured as a dummy variable being equal to one for the years 1969-1977 and zero otherwise.

The Production Equations

$$\log Pa = a_{30} + a_{31} \log Q + a_{32} \log POL + a_{33} \log NW \tag{3}$$

$$\log Pc \mid a = a_{40} + a_{41} \log ARST + a_{42} \log R + a_{43} \log NW \tag{4}$$

$$\log Pe \mid c = a_{50} + a_{51} \log CONV + a_{52} \log R + a_{53} CL + a_{54} T \times \log CONV_{t-1} + a_{55} \log A1419 \tag{5}$$

The model hypothesizes that real expenditures on police, POL, and real total expenditures in the criminal justice system, R, should increase the probability of arrest, conviction and execution. This hypothesis is based on the assumption that the police and prosecutors invariably lack resources to maximize the number of apprehensions, convictions and upheld convictions with death sentences; at least some additional resources are necessary to increase these outputs. The variables, observed murders, Q, arrests for observed murders, ARST, and convictions for observed murders, CONV, represents the workload on the criminal justice systems. In the absence of increased real expenditures, one hypothesizes that increases in the workload imply less resources per offender and result in lower rates of apprehension, conviction and upheld convictions with death sentences. The fraction of the population nonwhite, NW, is included in equations (3) and (4) as a proxy for urbanization to control for the possibility that urban and rural areas have different production relationships.

The dummy variable, CL, equal to one for the years 1964-1969 controls for the class action suits that virtually eliminated executions during this period. For similar reasons an interaction term between chronological time and convictions is included. The percentage of the populace between fourteen and nineteen is included to control for society's reluctance to execute juveniles.

The Expenditure Equations

$$(6)\qquad \log R = a_{60} + a_{61} \log Q + a_{62} \log YP + a_{63} \log N + a_{64} \log A2549 + a_{65} \log NW + a_{66} \log A50PLUS + a_{67} \log Q_{t-1} + a_{68} \log Q_{t-2} + a_{69} \log OVC_{t-1} + a_{6,10} \log OVC_{t-2}$$

$$(7)\qquad \log POL = a_{70} + a_{71} \log Q + a_{72} \log YP + a_{73} \log N + a_{74} \log A2549 + a_{75} \log NW + a_{76} \log A50PLUS + a_{77} \log Q_{t-1} + a_{78} \log Q_{t-2} + a_{79} \log OVC_{t-1} + a_{7,10} \log OVC_{t-2}$$

Equations (6) and (7) measure the public's willingness to expend resources on the criminal justice system. Inasmuch as the public's concern for protection is a function of current and past murder rates, the variables Q, Q_{t-1}, Q_{t-2}, and other violent crime, OVC_{t-1}, OVC_{t-2} are included in equations (6) and (7). Permanent income is included to reflect society's willingness to support more resources for the criminal justice system as society's income increases. The age groups A2549, fraction of the population twenty-five to forty-nine years of age; A50PLUS, fraction of the population over fifty years of age; and NW, the measure of urbanization control for the possible effects age and urbanization have on demand for law enforcement activities. The variable N, the civilian resident population in thousands, is included to account for variations in population.

The Handgun Equation

$$(8)\qquad H1 = a_{80} + a_{81} \log YP + a_{82} \log HTL + a_{83} \log A2549 + a_{84} \log NW + a_{85} \log (Q/N) + a_{86} T + a_{87} \log H2 + a_{88} ACT$$

To test whether the rate of handgun acquisition was a function of the homicide rate equation (8) is included in the structural model. With the exception of (Q/N), which has been defined previously, the variables in equation (8) are identical to equation (1). For a description of the variables and their *a priori* signs the reader is referred to Section II. For the reader's convenience all the variables used in the structural model are listed in Table 2.

C. Estimates of the Structural Model

Due to the simultaneous nature of the system of equations (2) through (8) and the presence of autocorrelation in time-series data, equation (2) is estimated by using two-stage Cochrane-Orcutt (1949).[11] The empirical estimates of the coefficients of equation (2) and the t-statistics are presented in column 1 of Table 3.

The estimates of the murder supply equation generally support the hypothesis that the deterrent effect of legal sanctions reduces the homicide rate. Greater certainty of apprehension, conviction and execution are found to have a significant inverse effect on the murder rate.[12] The

TABLE 2

VARIABLE IDENTIFICATION

Endogenous Variables

Q = number of observed murders
ARST = arrests for observed murders
CONV = convictions for observed murders
Pa = probability of apprehension
Pc | a = the conditional probability of conviction given apprehension
Pe | c = the conditional probability of execution given conviction
H1 = handgun purchases per thousand resident civilian population
R = total resources available to the criminal justice system
POL = resources available to police only

Exogenous Variables

YP = real permanent income per capita
L = proportion of the population in the labor force
T = chronological time
N = resident civilian population
ALC = alcohol consumption per person aged fifteen or above (in gallons)
NW = proportion of the population which is nonwhite
H2 = handgun stock per thousand resident civilian population
HTL = hunting licenses per thousand resident civilian population
CL = dummy variable representing class action appeals taking the value one for 1965-1969 and zero otherwise
A1419 = proportion of the population aged fourteen to nineteen
A2549 = proportion of the population aged twenty-five to forty-nine
A50PLUS = proportion of the population aged fifty years or more
OVC = index of other violent crimes
ACT = dummy variable representing the Gun Control Act of 1968, taking the value zero from 1947-1968 and one from 1969-1977.

A complete description of the data is available in the appendix.

TABLE 3

TWO-STAGE COCHRANE-ORCUTT REGRESSION
RESULTS FOR HOMICIDES: 1947-1977

Independent Variables	Dependent Variable Q/N (1)	Q/N (2)
Constant	-.8905 (-2.01)**	-.4280 (-.87)
log Pa	-.0781 (-2.40)††	-.0549 (-1.47)†
log Pc | a	-.0069 (-1.35)†	-.0099 (-1.79)††
log Pe | c	-.0006 (-1.82)††	-.0005 (-1.44)†
log A1419	-.0176 (-.85)	-.0132 (-.60)
log L	-.1776 (-1.70)†	-.1723 (-1.70)††
log YP	.3484 (6.09)**	.2673 (4.98)**
T	-.0111 (-6.08)††	-.0093 (-5.47)††
log ALC	.0133 (1.91)††	.0184 (2.60)††
log H_1	-.0039 (-1.56)	......
log H_2	......	.0348 (1.73)*
ACT	.0029 (1.17)	-.0009 (-.31)
R^2(adj)	.989	.986

Note: Value of t-statistics in parentheses below each coefficient: ** significant at .05 level (two-tail test); * significant at .10 level (two-tail test); †† significant at .05 level (one-tail test); † significant at .10 level (one-tail test).

coefficient for permanent income is significantly positive, while the coefficient for labor force participation and time trend are significantly negative. The fraction of the population in the age range of fourteen and nineteen is not significantly related to the number of murders. Particularly noteworthy is the finding that alcohol consumption is directly related to the rate of homicides. This finding is consistent with those who have hypothesized that the consumption of alcohol is a significant causal factor of violent behavior. Yearly handgun purchases are found not to significantly contribute to more violence. This result contradicts Zimring's hypothesis that "new handguns" are more likely to contribute to acts of violence. Statistical significance aside, the negative coefficient of yearly handgun purchases as well as the fact that the estimated coefficient is one and a half times its standard error strongly suggests that handgun purchases serve as a deterrent to homicides and introduces the possibility that there exists a simultaneous relationship between yearly handgun purchases and the homicide rate.[13] Finally, the coefficient on ACT is not significantly different from zero, suggesting that the Gun Control Act of 1968 did not selectively reduce the access of handguns to high risk users.

It has been argued, however, that the murder rate may be related to the cumulative number of handguns owned rather than the rate of handgun acquisition. This reasoning suggests that the very existence of a large stock of handguns creates an environment conducive to murders. Accordingly, equation (2) in the model is reestimated using two-stage Cochrane-Orcutt with the handgun stock, H2, replacing handgun purchases, H1. These results are given in column 2 of Table 3.

As can be seen, the coefficients and the levels of significance of all the other variables in equation (2), except H2 and ACT, remained virtually unchanged.[14] The stock of handgun ownership is found to have a significant and positive impact on the homicide rate. It is incorrect, however, to conclude from this information that the handgun stock is a cause of murder for two reasons. First, it is not inconceivable that increases in the handgun stock occurred in those groups of individuals most prone towards violence. Zimring (1975), in fact, suggests that it is possible that rather than the general patterns of handgun ownership contributing to violence, it is the increase in handgun ownership among subcultural groups disproportionately associated with violence that is the basis of the problem. Secondly, the homicide rate may affect the level of handgun ownership in the same way, as those that argue that the level of handgun ownership affects the homicide rate. In other words, greater handgun ownership may have been motivated by fear of crime, violence and civil disorders. Thus, lower levels of handgun ownership may not be, as alleged by some, a sufficient condition for lower homicide rates. Finally, the coefficient on ACT reaffirms the conclusion that the Gun Control Act of 1968 did not have a statistically or numerically significant impact on the level of homicides.[15]

As suggested above, the simultaneous relationship between yearly handgun purchases and the homicide rate implies that the ordinary least squares estimates of equation (1) reported in the previous section are biased and inconsistent. Accordingly, equation (8) is reestimated using two-stage Cochrane-Orcutt within the context of equations (2) through (8) of the structural model. The empirical results appear in column 1 of Table 4.

In contrast to the results reported in Section II (reprinted in column two of Table 4) hunting licenses, permanent income, time trend, and urbanization are

TABLE 4

TWO-STAGE COCHRANE-ORCUTT AND
ORDINARY LEAST SQUARES REGRESSION RESULTS
FOR HANDGUN PURCHASES: 1947-1977

Independent Variables	Coefficient (Cochrane-Orcutt)	Coefficient (Ordinary Least Squares)
Constant	-45.586 (-2.17)**	-65.059 (-5.01)***
log YP_t	4.042 (1.03)	7.312 (3.52)***
log HTL_t	.895 (.79)	2.557 (2.28)**
log $A2549_t$	8.915 (2.67)**	4.816 (1.60)
log NW_t	1.468 (.22)	14.398 (2.31)**
log $(Q/N)_t$	18.698 (1.88)*	......
log OVC_t	......	1.267 (2.34)**
T	.146 (.78)	-.185 (-2.61)**
log $H2_{t-1}$	-7.678 (-4.29)***	-6.664 (-3.88)***
ACT	.484 (3.52)***	.327 (2.09)**
R^2(adj)	.977	.971

Note: Value of t-statistics in parentheses below each coefficient: *** significant at .01 level; ** significant at .05 level; * significant at .10 level. The ordinary least squares coefficients in column 2 are reproduced from Table 1.

now found to be statistically insignificant. The fraction of the population between the ages of twenty-five and forty-nine is now significant and positively related to the rate of handgun acquisition, and the handgun stock still significantly and inversely related to the rate of handgun acquisition. The homicide rate is found to be significantly positive suggesting that the murder rate affects handgun purchases. Further, the coefficient of ACT is still significantly postive, reinforcing the conclusion in Section II that the Gun Control Act of 1968 not only did not reduce the rate of handgun acquisition, it may have had an "announcement effect" which resulted in citizens, because of fears or expectations of more restrictive legislation, purchasing handguns at dramatically higher rates.

IV. CONCLUSION AND POLICY REFLECTIONS

The objective of this study was to analyze the impact of the Gun Control Act of 1968 on the rate of handgun acquisition and the homocide rate. We examined yearly handgun purchases using the methodology normally followed in examining the purchases of any other consumer durable good. Using a single equation model that controlled for various socioeconomic factors, the cumulative stock of handguns, and an index of violent crimes; our results showed that there had been a significant increase in handgun purchases since the enactment of the Gun Control Act of 1968. We suggest that this may have occurred because the populace anticipated more restrictive legislation. However, this result did not necessarily imply that the Gun Control Act of 1968 was a failure. It might have been that the Gun Control Act of 1968 reduced the rate of handgun acquisition to groups classified as potentially dangerous or prone towards violence. If the rate of handgun acquisition was reduced among these high risk users, even though there was an overall increase in purchases, then the impact of the Gun Control Act of 1968 would affect the rate or number of homicides rather than the handgun acquisition alone.

To isolate the effect of the Gun Control Act on the homicide rate requires treating homicide as part of an interrelated system taking into account the effectiveness of law enforcement, the judicial system, the punishment meted out, expenditures available to the criminal justice system and handgun availability. A structural model (equations 2-8) was formulated and the homicide equation was estimated within the context of this model. Our results indicate that the Gun

Control Act of 1968 did not reduce the homicide rate, and that yearly handgun purchases were not significantly related to homicide rates.

Since many have suggested that the homicide rate is related to the cumulative number of handguns owned rather than the rate of yearly purchases, the homicide equation was reestimated within the context of the structural system of equations, using the stock of handguns rather than yearly handgun purchases. The results showed that, again, the Gun Control Act of 1968 did not have a statistically or numerically significant impact on the homicide rate. We did find, as alleged by proponents of gun control legislation, that the cumulative number of handguns owned did have a significantly positive impact on the homicide rate. However, such a finding does not necessarily imply that the cumulative level of handgun ownership is a cause of homicides. It is entirely possible that the level of handgun ownership and the homicide rate mutually interact (i.e., greater handgun ownership being a reaction to higher violent crime rates). To account for this mutual dependency, the yearly handgun acquisition equation was reestimated within the context of the structural system of equations. Our results indicate that the homicide rate has a positive impact on yearly handgun purchases. Further, we still find that the Gun Control Act of 1968 did not reduce the rate of handgun purchases.

Our empirical findings that the Gun Control Act of 1968 neither reduced the rate of handgun purchases nor reduced the rate of homicides should not be construed as demonstrating that such legislation can never work. It is conceivable that better designed legislation could reduce the availability of handguns to those most prone towards violence. Our study merely shows that the Gun Control Act of 1968 did not accomplish the social goals explicit in its adoption.

The most important aspect of this study is the structural model which treats homicides and handgun ownership as a complex problem that encompasses the behavior of murderers, society and the criminal justice system. Previous research on gun ownership and on gun control suffers from the methodological shortcoming of ignoring the interdependence of many of the key variables.[16] Such research does not contribute to greater understanding and is open to the criticism it has been dictated more by ideology than detached scholarship.

It must also be understood that theoretical modelling and empirical testing of such models is only the first step in determining appropriate public policy. Even after identifying the causal relationships involved in the criminal choice-criminal justice system, a second stage of the analysis will require specification of the cost associated with each proposal for preventing criminal behavior. As there are many such proposals competing for a limited amount of criminal justice resources, yet a third stage of analysis may require comparison of the costs and benefits between competing potential solutions. In short, it is suggested that effective public policy in this area requires extensive and mature deliberation. Legislators who instead react reflexively to increases in violent crime and wanton acts of violence are likely to effect no more than a cosmetic panacea to the the violence in American life.

FOOTNOTES

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1. This provision of the Act essentially grants all federal license holders a monopoly position in commerce. The value of this monopoly position is dependent upon how vigorously the Treasury Department restricts new entry. As with other monopoly positions such legislation will raise the relative price of [redacted] firearms.
2. While no one contests what the laws attempts to accomplish, there is disagreement as to whether or not the record keeping provision significantly raises the productivity of the criminal justice system and/or is cost effective. Testing this hypothesis is beyond the scope of the present study since a) this research is confined to homocides and it is possible that the record keeping provision raises the probability of apprehension and conviction of other crimes and b) the statistical method employed does not allow one to analyze the record keeping provision in isolation from other provisions of the Act. Regardless of the view of the effectiveness of record keeping, the provision restricting residents to purchase handguns, if they so choose, only from firms located within their state further enhances the monopoly position of licensed local dealers. Prior to the passage of the Act, a significant source of competition to local dealers were national mail order dealers.
3. One might argue that the importation ban was simply an attempt to protect U.S. manufacturers against foreign competition. Zimring (1975) argues against this interpretation, reasoning that if the limitation of imports was merely "protectionist" legislation then the exemption of weapons suitable

for "sporting purposes" makes no sense since it allows for the importation of rifles and shotguns. In attempting to explain the rationale for passage of this legislation one need not adopt the narrow view of "protectionist" legislation or the view that legislators were motivated by a genuine concern for public safety since the important theoretical work of Downs (1957), Buchanan and Tullock (1960) and Peltzman (1976), and the subsequent empirical research, strongly suggests that the behavior of legislators and regulators can be better explained from the viewpoint of building broad-based coalitions. Whatever the intent of the importation restrictions, the actual effect of this legislation was to greatly reduce the number of imported handguns and greatly increase the demand for domestic handguns.

4. The functional form of this equation is based on the theoretical and empirical work of Stone and Rowe (1960) in their classic study on consumer durable goods.
5. See, for example, Erlich (1976) and Hoenack and Weiler (1980) for similar usages of this variable.
6. The FBI's seven index crime rates are homicide, rape, assault, robbery, burglary, larceny and auto theft.
7. Since price is an important variable in explaining the variations in the purchase of consumer durable goods, a price variable was added to equation (1). Unfortunately, no data exists on the average price of handguns so a proxy variable was employed. The proxy variable used was the GNP price deflator for consumer durable goods. The empirical results were virtually identical to those exhibited in Table 1, except that the price variable was statistically insignificant.
8. This should not be misunderstood as meaning that handgun purchasing has declined in absolute number. What the analysis indicates is that if all the other factors affecting handgun acquisition had remained unchanged over the period studied there would have been a decline in handgun purchases over time. Many have made references to the steady increase in handgun purchases that have occurred over time. However, our empirical results indicate that the increase in handgun purchases is not due to the passage of time but, instead, the increase is related to changes in other factors in the model.
9. If there exists a subcultural group within society that is more prone towards violent activity then lower than average rates of handgun ownership

may not be sufficient to reduce violent activity. Assuming this hypothesis is correct, then the major impact of the Gun Control Act of 1968 would be upon criminal activity and not necessarily handgun sales.

10. Similar economic modelling of criminal activity, including homicides, has been done by Carr-Hill and Stern (1973), Ehrlich (1973, 1975), and Wolpin (1978).
11. A complete description of autocorrelation and the Cochrane-Orcutt estimation procedure is given in Johnston (1972).
12. The empirical results indicate that capital punishment reduces homicides. However, since we exclude other forms of punishment this research offers no comment as to whether or not capital punishment is cost effective.
13. Newton and Zimring (1970, p. 21) make reference to this point but ignore its theoretical and empirical implications.
14. Use of gross handgun stock figures assumes that over time handguns neither deteroriate, become obsolete, or are misplaced. Wright (1982) has estimated the net handgun stock figures assuming the average lifetime of a privately owned firearm is fifty years. Using net handgun stock as H2, equation (2) was reestimated and the empirical results remained virtually identical.
15. One might argue that the purpose of the Gun Control Act of 1968 was strictly designed to reduce access and availability of handguns rather than have any direct effect on the homicide rate. Equation (2) was reestimated without ACT and the empirical results, with either H1 or H2 included, remained virtually identical.
16. See, for example, the empirical studies of Geisel, Roll and Wettick (1969), Murray (1975), Phillips, Votey, and Howell (1976), U.S. President's Commission on Law Enforcement and Administration of Justice (1967), Sommers (1980).

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The Assumptions of Gun Control

Gary Kleck and David Bordua.

School of Criminology,
The Florida State University.

Department of Sociology,
University of Illinois, Urbana.

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Introduction

The gun control issue is complex, involving dozens of interrelated subissues and disputes. Some of the disputes are value disputes or conflicts over fundamental beliefs - a clash of cultures (The Wall Street Journal 1973; Bruce-Briggs 1976). As such, the issues can not be resolved solely on the basis of research evidence. However, many of the arguments for gun control depend on certain specific assumptions, sometimes explicitly stated, often left implicit, which can be evaluated on logical grounds, and compared against the available research evidence. We have identified five of the more important assumptions of this sort, and have attempted to subject them to this kind of examination. We take a predominantly critical stance towards these assumptions, because the dominant stance in much of the academic research community has been one unusually uncritical of gun control policies, in sharp contrast to their ordinarily skeptical view of other governmental policies restricting human behavior in one way or another.

The term "gun control" is very broad, referring to anything from increased penalties for use of guns in a felony to a total ban on ownership of firearms. There are dozens of basic gun control policies and thousands of possible combinations of these policies. Some are directed at ownership, others at illegal use, some at handguns, others at all firearms. We will concentrate in general on policies aimed at restricting or banning ownership of firearms, especially (but not exclusively) policies directed at handguns.

Assumption Number 1:

Guns are five times deadlier than the weapons most likely to be substituted for them in assaults where guns are not available.

This assumption is crucial to gun control arguments because opponents of gun control measures have claimed that where guns are unavailable, other weapons will be substituted for them and homicides will be committed with the alternative weapons at the same rate as would have occurred with guns available. Gun control advocates counter this argument by saying that the substituted weapons will be less deadly, less technically effective for inflicting fatal injury than firearms, resulting in a lower assault fatality rate and therefore fewer homicides. Two assumptions are involved in the substitution argument of gun control advocates. The first is that knives are the most deadly of the likely substitute weapons and therefore would produce the largest possible substitution effect, and the second is that the guns are approximately five times deadlier than knives.

If guns become harder to obtain, or riskier to own, those who feel the greatest need to own guns will be the ones most likely to either retain their guns, or to obtain the best available substitute they can afford. If a control policy directed at all guns is under consideration, knives might well be the most common substitute since they seem to be the next most effective available weapon, among those which could be used in the same sort of circumstances as guns. However, many of the policies currently advocated are directed solely at specific types of guns, especially handguns, or even more narrowly, the cheap handguns known as "Saturday Night Specials." If denied one defensive device, a rational, highly motivated person would presumably acquire the next best substitute device. If handguns become harder to get, the next most satisfactory weapon, either for self-defense or for committing crimes, would be a rifle or shotgun, not a knife. These weapons are certainly more expensive than knives, but are also much more effective for the person who desires a weapon because he or she feels unable to physically resist the average robber or rapist, who is most likely to be a strong male. Therefore, restriction of handgun ownership could result in a shift to rifles and shotguns for defensive purposes among those highly motivated (see Kates 1976 on this point), and also to the use of sawed-off versions of these weapons for criminal purposes. If these weapons are deadlier than handguns (especially at close range, where most assaults occur), such a shift in weapon type would amount to an upgrading of weaponry, and would tend to result in a higher assault fatality rate. In a similar way, effective restrictions on the availability of cheap, small caliber handguns could cause a shift to more expensive handguns of better construction and larger caliber. Since larger caliber guns are deadlier (Zimring 1972), this policy could also result in a higher assault fatality rate. Whether handgun prohibition would result in a net increase in the assault fatality rate would depend on what proportion of prospective assaulters would substitute knives for handguns, and what proportion would substitute long guns. Kates and Benenson (1979, pp. 111, 227) estimate that even if only 30% switched to long guns and the remaining 70% switched to knives, there would still be a substantial net increase in homicides. (See Kleck, infra at   for an extended analysis of this matter.)

While it may well be that firearms are deadlier in assaults than knives, it is debatable just how much of the greater deadliness is due to the technical characteristics of the weapons and how much is due to differences in the intentions and intensity of motivation of the people who use the weapons. It may be the case that people who are more serious about committing deadly violence for that reason choose more "serious" weapons. However, Zimring (1968) claimed that firearms are five times as deadly as knives and further argued that the difference in gun and knife fatality rates can not be attributed to differences in motivation or intention of the weapon's user. As evidence of this latter claim he purports to show that gun and knife assaulters, described in Chicago police records for 1967, were similar in type of motive, race, sex, and bodily location of the wounds they inflicted. However, by recomputing row percentages of gun and knife assaulters by sex in Zimring's Table 5, the reader can see that 87.3% of gun assaulters were male, while only 65.2% of the knife assaulters were male. The relationship between gender and violence is well known and it is not implausible that male assaulters as a group are more intent on inflicting deadly violence than female assaulters. Weapon preference may be affected by sex role-structured prior experience with, and attitudes toward, firearms, and sex in turn may be related to seriousness of intent. Thus, at least part, perhaps most, of the difference in fatality rates of guns and knives may indeed be due to differences in intent of those who use them.

Zimring's early work does not allow detailed study of large numbers of gun and non-gun assaults which are comparable in presumed degree of intent to kill, since they concern rather heterogeneous samples of assaults. However, a later study (Zimring 1977) concerned only assaults in robberies, presumably a much more homogeneous sample. It indicated that guns were only 1.31 times as deadly as knives in armed robbery assaults (based on police data). Further, a medical study which concerned only abdominal wounds found a 3.1% mortality rate for stab wounds and 9.8% for gunshot wounds, indicating a three-to-one ratio (Wilson and Sherman 1961, p. 540). Thus, even using fatality rates in the Zimring manner to measure the relative deadlines of different weapons leads to weaker conclusions than Zimring reached. However, the technique is fallacious in any case since it erroneously assumes comparability of motives and intentions between users of different types of weapons. (For more extensive critiques of the Zimring line of reasoning, see Hardy and Stompoly 1974, pp. 103-100 and Kleck 1981, in this volume). In any case, these considerations suggest that if knives are substituted for guns as a result of an effective gun control program, the savings in lives will be considerably less than would appear if the five-to-one deadlines ratio is believed.

Assumption Number 2:

Firearms ownership increases the rate of assaults because the sight of a gun can elicit aggression due to the learned association between guns and violence.

This assumption implies that not only does firearms use in assaults increase the deadliness of those assaults, but that the rate of assaults will also be higher because some assaults which would not otherwise have occurred will be stimulated by the presence of a gun. In two articles in the semi-popular Psychology Today, Leonard Berkowitz made the argument explicit and summarized it with a slogan repeated by others since: "Guns not only permit violence, they can stimulate it as well. The finger pulls the trigger, but the trigger may also be pulling the finger." (Berkowitz 1968, p. 22; see also Berkowitz, 1981). Elsewhere, Berkowitz has argued that stimuli commonly associated with aggression, such as guns, can elicit aggression from people ready to aggress (i.e. angry people) when the stimuli are associated with an available target. By a process of classical conditioning, the repeated pairing of guns and aggression, in real life and in fiction, creates an association between guns and aggression when presented with the stimulus, guns. In addition to causing assaults that might not otherwise have occurred, guns may also cause increased intensity of attack, Berkowitz argued. The theoretical rationale for this notion was never made clear and Berkowitz seems to have dropped the notion since the original Berkowitz and Le Page (1967) article on the subject.

The "weapons effect" studies are nearly all experimental studies, usually conducted in laboratories. Typically, confederates of the experimenters in some way anger the subjects, who are then given an opportunity to aggress against the confederates using electrical shocks, supposedly in the context of a "learning experiment." The key experimental condition is the presence of a weapon (usually a gun), toy weapon or picture of a weapon, which either is or is not associated with the confederate.

Berkowitz and Le Page produced marginal support for the gun effect hypothesis - the "weapons effect" was observed for strongly angered subjects, but not for weakly angered subjects; significant differences between control and experimental groups were observed for mean number of shocks given, but not for mean duration of the shocks. Researchers following Berkowitz elaborated his original theoretical framework in several important ways. They differentiated between groups which showed the weapons effect and other groups which did not, they recognized the importance of the differing meanings which people attach to guns, and they more fully recognized the possibility of guns inhibiting aggression as well as eliciting it. For example Fischer et al (1969) and Turner, et al (1975) found a small (and statistically insignificant) weapons effect only for people of low emotionality.

Turner and his associates (1975) recognized the possibility that many people may not perceive guns as aggressive stimuli, especially if they have frequently been observed in non-aggressive contexts such as hunting or target shooting. They devised a naturalistic experiment in which a pickup truck driven by a confederate would deliberately fail to move at a traffic light when the light turned green, obstructing traffic behind him. Horn honking by the drivers of the cars immediately behind the truck (the subject's) was the measure of aggression. The truck sometimes had a rifle in a gun rack, which was clearly visible from behind the truck, and sometimes did not. The rifle was either paired with a large bumper sticker on the truck with an aggressive connotation (the word "vengeance"), or a non-aggressive connotation (the word "friend"). Significantly more honking occurred when the rifle was given the aggressive connotation than when it was not given such a connotation. Further, the rifle paired with the non-aggressive meaning did not produce significantly more aggression than the no-rifle control condition (a fact Berkowitz unaccountably fails to mention in his 1981 Psychology Today discussion of of this study). The validity of horn honking as a measure of aggression or its comparability to physical violence is unknown, and unfortunately the effect of gun meaning on the weapons effect has not been empirically evaluated with any other measure of aggression.

Given that virtually all of the personal experience with guns which most gun owners have is in predominantly non-aggressive recreational activities, these findings suggest that the weapon's effect is largely limited to either people who do not own guns or to gun owners whose experience with guns is limited to circumstances of real-life aggression and/or to fictional violence (especially on television or in films).

Four experimental studies have produced findings largely inconsistent with the weapons effect hypothesis: Ellis et al (1971), Page and Scheidt (1971), Buss (1972), and Turner and Simons (1974) (although the authors of the last study chose not to emphasize the negative weapons effect findings in their Table 1). On the other hand, the findings of Frodi (1973), Leyens and Parke (1975), and Page and O'Neal (1977), as well as those of Turner et al. (1975) discussed above, at least partially support the hypothesis. However, Leyens and Parke used pictures of guns rather than actual weapons as stimuli and used as a measure of aggression the number of shocks subjects said they wanted to give to the confederates who had insulted them. The artificiality of these conditions makes these findings of questionable generalizability. The Leyens and Parke study was conducted in Belgium and that of Frodi in Sweden. Since Europe has little tradition of widespread participation in gun-related recreational activities such as hunting (see Kennett and Anderson, 1975, on the contrast between European and U.S. traditions of gun use), most European subjects are likely to have had real-life experience with firearms only in the context of the military or warfare, if at all. Otherwise, their experience will have been limited to the fictional and largely aggression-laden contexts of television and films. Therefore, these studies may be of limited relevance to an evaluation of the plausibility of the weapons effect hypothesis in the U.S.

The social psychologist critics and defenders of the weapons effect hypothesis have clashed with each other primarily over technical issues. These largely inconclusive discussions focus on whether findings were due to demand characteristics of the experiments, such as subject awareness of experimenter's expectations and subjects' anxiety at being evaluated on their aggressiveness. However, a more fundamental criticism can be made of almost all of these studies. In nearly all experimental studies of the weapon's effect, the weapon is either associated with the potential victim of the aggression (the confederate) or is not associated with anyone in the experimental situation. Weapons never were in the possession of, or associated with the potential aggressor (the subject). Yet the principle issue of relevance to gun violence is whether the aggressor's possession of a gun makes his physical aggression more likely, not whether it makes his potential victim's aggression more likely. Thus, the social psychological literature does not address itself directly to the issue of gun owner aggression at all, but rather to the subsidiary issue of aggression directed against gun owners! And the one study in which guns were linked to the experimental subjects (Buss et al 1972), no weapon effect was found (subjects in this study fired BB guns before being evaluated for aggression).

In a real life setting of potential violence, where one person has a gun and other does not, it seems highly likely that any potential aggression of the other will be inhibited by the fear of the consequences of assaulting the person with the gun far more than it will be stimulated by the sight of the gun. Consistent with this point, Fischer et al (1969, Fraczek and Macaulay (1971), and Turner et al (1975)obtained results indicating significant inhibiting effects of weapons (knives in the Fischer et al. study and guns in the other two studies). Fischer et al. found inhibiting effects for women, while Turner, and his associates found inhibiting effects for men and women in a number of experimental conditions. Fraczek and

Macauley found significant inhibiting effects of guns on highly emotional subjects, possibly because such people have learned to fear the possible consequences of their own aggression. These findings, combined with the mixed findings regarding the eliciting of aggression, are sufficiently plausible to raise the possibility that, for the population as a whole, guns are as likely to inhibit assaults as to incite them, and that gun ownership therefore has no net effect at all on the frequency of assaults.

Assumption Number 3:

> People are only superficially motivated to acquire and own guns. Therefore, if guns are made more expensive, more difficult to obtain, or legally risky to own, people will do without them (i.e., the demand for guns is highly elastic).

The demand for guns is most elastic among those gun owners least highly motivated to acquire and retain them. If we assume that those motivated by fear of crime are on the average more highly motivated than those motivated by desire for recreation, in hunting or target shooting, then demand for guns is least elastic among those who own guns for self-defense. Consequently, we would expect the resistance to policies restricting firearms to be strongest (or at least very strong) among the most highly motivated defensive gun owners.

A large proportion of gun owners own guns for the purpose of protection or self-defense. A 1975 national survey found that for 55% of all gun owners, self-defense was at least one of the reasons they owned a gun, although some owners gave other reasons in addition to this one (U.S. Congress 1976, p. 9). In two national surveys conducted in 1978, 21% and 25% of all gun owners said self-defense was the most important reason they own a gun. Among the handgun owners, 45% owned their guns for this reason (DMI 1979:40). Finally, a 1977 survey of Illinois residents indicated that among persons who owned only handguns, 57% owned them exclusively for the purpose of protection, while another 10% indicated protection was their main purpose (Bordua et al 1979, p. 231).

Given the frequency of defensive ownership of firearms, it would not be surprising if compliance with laws restricting gun ownership would meet with widespread resistance and a low rate of compliance. This expectation is confirmed by survey data regarding anticipated rates of compliance. The Illinois survey asked respondents if they would comply if a law were passed requiring people to turn in their firearms to the federal government;

73% of gun owners stated they would not comply (Bordua et al 1979). Further, the general public does not believe compliance with such a law would be very great: fully 95% of a general national sample of adults questioned in 1978 believed that only half or fewer of gun owners would comply with a law requiring a turn-in of handguns to the federal government. The same survey found that 71% of the general public believed that even with a registration of guns, half or fewer of gun owners would comply (DMI 1979, p.66). These data suggest that gun ownership for self-defense,especially handgun ownership, is highly inelastic and that voluntary compliance with restrictions of ownership would be discouraging low, even in the general, predominantly non-criminal, gun owning population. Presumably, voluntary compliance among criminal guns owners would be far worse.

It is a truism that restricting ownership of firearms can have an effect on the homicide rate only to the extent that ownership is reduced or limited among those who are violence prone. This must be true, since everyone who commits a homicide is by definition violence-prone, regardless of whether killers could be identified as violence-prone in advance of their killings. Therefore, it is crucial to know to what degree gun control laws will limit gun ownership within this group.

It can be hypothesized that it is mong the highly motivated defensive gun owners where killers are most likely to be found. This is because, we would argue, killers often perceive themselves as potential victims (see Toch, 1969, for a related view). This should not be surprising since the distinction between the killer and the victim in a homicidal episode often is simply a matter of who strikes the last or hardest blow in a mutual exchange of blows, or of who happens to first introduce a deadly weapon into the exchange (Wolfgang 1958); Luckenbill 1978). Many killers actually come close to being victims themselves in exchanges initiated by persons who ultimately became the homicide victim. Further, if killers and victims are often both members of a subculture of violence, as Wolfgang and others have argued, and if they both reside in high crime areas where risks of victimization are high, it is to be expected that many gun acquisitions by people who eventually become killers were initially made for defensive reasons. Few homicides are premeditated (Wolfgang and Ferracuti 1967, p. 14), and thus few guns are purchased with the goal in mind of willing a particular individual. Rather, it is reasonable to believe that the weapons were originally acquired for defensive purposes, and only later were used to kill. Indeed, in a sample of Florida prisoners convicted of gun murder, 58.5%, had originally acquired their guns for protection. (Florida 1977, pp. 4-10).

Therefore, it is among violence-prone people that demand for guns is most inelastic and it is they who would be the most likely to either violate gun laws or seek effective substitutes for prohibited weapons, whether they be handguns in general, or Saturday Night Specials in particular. This would not, for the most part, be because they intend to use the weapons for criminal purposes, although that may also be true for a small minority of gun owners. Rather, it would be the result of a felt need for protection in an environment accurately perceived to be dangerous. If this analysis is correct, laws aimed at restricting gun ownership will be least successful in doing so precisely where they most need to succeed in order to produce a reduction in homicide.

Assumption Number 4:

People who buy guns for self-defense are the victims of self-deception and a mistaken belief in the protective efficacy of gun ownership.

This assumption is crucial to gun control policy because without it opponents can claim that loss of self-defense guns by law abiding citizens is an opportunity cost of gun control policy which would go a long way towards counter-balancing possible benefits in crime reduction. Persons who own guns for defensive purposes, unless they are totally irrational, clearly must at least believe their guns are useful for self-defense, regardless of the actual protective efficacy of guns. Consistent with this point, 83% of a 1978 national sample agreed with the statement that "Most people who have guns feel safer because of it" (DMI 1979, p. 43). Gun owners derive at the very least the very real, albeit intangible psychological benefit of decreased anxiety regarding criminal victimization. This is a benefit exactly analogous to one which life insurance provides - you do not purchase a policy so you can die and leave your family the insured sum. Rather, the principal benefit is peace of mind. Likewise, the chief benefit of defensive gun ownership is not the actual use of guns for defense against criminals, but rather the peace of mind which is produced by the knowledge that the gun is available and could be used for defensive purposes if needed.

Nevertheless, gun control advocates argue that however real these psychological benefits may be, they are largely illusory, because gun ownership does not in fact prevent crime victimization. The argument that guns are ineffective for self-defense has been put forth in its most complete form in the work of Matthew Yeager and his colleagues (1976). They compiled diverse bits and pieces of evidence, much of it bearing little or no relationship to their stated issue of the efficacy of handguns as crime defensive devices. Because their work is cited by others, it is important to evaluate their arguments and evidence where it is at least marginally relevant to the protection issue.

In connection with burglary, the authors present evidence indicating that burglary victims seldom have an opportunity to use a gun against a burglar because there is rarely any confrontation between victim and offender, and show that almost no burglars are killed by homeowners. Yet, as Bruce-Briggs (1976) has wryly noted "the measure of the effectiveness of self-defense is not in the number of bodies piled up on doorsteps, but in the property that is protected." Thus the question is whether victim's gun ownership somehow deters burglars from committing burglaries. It is not usually a matter of common knowledge either in the general population, or among burglars, that a particular homeowner owns a gun; therefore, a gun in a given residence is not likely to deter burglars from victimizing _that specific residence_. Consequently, evidence cited by Yeager et al. regarding individual victim ownership of guns and burglary victimization (p. 5) is irrelevant to the deterrence issue. However, it may very well be a matter of common knowledge (or belief) that certain neighborhoods are, in the _aggregate_, heavily armed (e.g., see Hannerz 1969, p. 80, regarding a black neighborhood in Washington, D.C.) and it certainly is common knowledge that some regions of the U.S., especially the South, are more heavily armed than others.

In this connection, it can be argued that the non-legal risk of being shot by a homeowner may be taken more seriously by burglars than the risks of legal punishment, which are themselves rather low. The clearance and conviction rates for burglaries in the U.S. in 1976 were 16.8% and 27.8% respectively (U.S. FBI 1977, pp. 162, 217) giving an approximate risk of arrest and conviction for any given burglary of 4.7% (0.168 x 0.278 x 100%). There were an estimated total of 3,252,100 burglaries reported to the police in 1975 (U.S. FBI 1977, p. 37) and a total of 8,223,000 as indicated by victimization surveys (U.S. NCJISS 1977, p. 17) indicating that only about 40% of burglaries were reported to the police. Thus the overall risk of a burglar being arrested and convicted was only about 1.8% (.40 x .047). If half of those burglars convicted received a prison sentence, then the risk of imprisonment was 0.9%. In 1964 (the last year for which relevant national data are available), the median prison term served for burglary was 20.1 months (U.S. Federal Bureau of Prisons 1967, p. 52), a value which is probably lower now. Therefore the legal risk which an average burglar in the U.S. faces is a 0.9% chance of serving a median prison sentence of 20 months. In short, the legal risks of burglary, at least in the short run, may very well seem slight to burglars or potential burglars. On the other hand, the non-legal risk a burglar faces is that of being shot, possibly fatally, by a homeowner armed with a gun. The probability of this event is unknown, but certainly non-zero. A Toronto victimization survey found that in 21% of burglaries, the burglar was confronted by a victim (Waller, 1978, p. 31), indicating that opportunities to use a firearm would not be uncommon among burglary victims, if they owned firearms. Given the seriousness of the possible outcome, even a very slight probability of the event occurring may be taken seriously by a potential burglar. For example, some professional robbers interviewed by Conklin (1972:85) began their careers committing burglaries, but later gave up this type of crime because of a distaste for its "sneakiness" and "the risk of being trapped in a house by the police or an armed occupant" (emphasis added). Therefore, even though burglars may not be deterred from victimizing particular households because of gun ownership, the knowledge that gun ownership is common in general, or in a given area may very well exert a deterrent effect, such that some potential burglars either refrain altogether from burglary, or commit fewer burglaries because of the additional anxiety associated with the crime. Since there is evidence indicating that burglars respond to the legal risks of burglary, however slight they may be in absolute terms (e.g. Tittle, 1969; Phillips and Votey, 1972; Ehrlich, 1973), it would follow that if the risk of being shot by an armed victim is viewed with at least equal seriousness by burglars, gun ownership would also exert a deterrent effect on burglars. There is also direct evidence that criminals do take victim gun ownership into consideration in planning crimes and choosing victims. Convicted robbers and burglars interviewed in a California prison stated that they would take into consideration the presence of weapons in a house or business and that they knew of specific cases where robberies were not committed because the prospective victim was known to be armed (Richardson, 1975). If this is so, then a reduction in gun ownership among potential burglary victims, due to gun control measures, could conceivably have the perverse effect of actually increasing burglary.

There are also instances of widely publicized firearms training programs apparently producing dramatic reductions in crime in various cities: rape in Orlando, Florida, in 1966, armed robberies in Highland Park, Michigan, in 1967, and grocery store robberies in Detroit (Knox, 1975, pp. 108-9). While none of these apparent effects have been rigourously analyzed, they are least suggestive regarding the possible crime deterrent effect of widespread gun ownership.

Our discussion of deterrence of burglary is necessarily somewhat conjectural, due to the paucity of hard evidence. However, Yeager et al provide some evidence regarding self-protection and other crimes, in particular robberies, assaults, and rapes. Contrary to their interpretation, the weight of the relatively hard evidence contradicts the claim that guns are ineffective for self-defense. Unpublished data derived from victimization surveys were studied to determine the outcome of crimes where victims used various forms of self-protection. The surveys did not cover victim use of a gun specifically, but did cover weapon use in general. Regarding robbery, Tables 5, 6, 7 in Yeager et al indicate the following: 1) robberies are less likely to be completed if the victim used a weapon for self-protection, compared both to those who did not use any self-protection methods and to those who used alternative protection methods, such as running away, hitting or kicking, yelling, or reasoning with the criminal, and 2) robbery victims were no more likely to be injured if they resisted with a weapon than those who did not resist at all, and were even less likely to be injured than those who resisted by yelling, hitting or kicking, or by holding onto their property. Presumably those who used guns were even more successful in preventing completion of the crime and in avoiding injury than those using other weapons.

Regarding assault, the data presented Yeager, et al in their Tables 11 and 13 indicate that: 1) assaults are less likely to be completed against victims who used weaoons, as compared to using no self-protection method, and 2) assault victims who used weapons were less likely to be injured than those who used no self-protection method.

Regarding rape, the authors present some evidence which contradicts their own basic stance, and other pieces of evidence which contradict each other. For example, on the one hand, they cite data indicating that only 33% of rapes occur in or near a residence, and argue that victims therefore usually are not in a place where their gun would be available (pp. 32-33). On the other hand, they cite another study indicating that the greatest proportion of rapes occurred while the victim was asleep in her bedroom, and for this reason would be unable to use a gun! The authors also point out that most rapists are unarmed (p. 32), and yet fail to draw the obvious inference that this would presumably give an armed victim an even greater chance of successfully resisting the attack (Compare Silver and Kates, 1979, pp. 164-5).

Perhaps the most potentially persuasive point made by Yeager et al is the simple observation that crime victims rarely get the opportunity to use a gun, even if they own one, especially when the crimes are committed away from the victim's home. Because of laws prohibiting or restricting the carrying of handguns in public places, most potential victims are not likely to get a chance to defend themselves with a gun if victimized away from home, unless they are willing to violate the law by carrying a concealed weapon.

However, gun owners do have opportunities to use their guns in self-defense, whether at home or away from home. A 1978 national survey indicated that in 7% of households with a gun, some member of the household had, in the past, used a gun (even if it wasn't fired) for self-protection against a person, excluding military service or police work (DMI 1979). A California survey found that 8.6% of handgun owners responding had used a handgun for self-protection (California 1977). A Toronto victimization survey found that 21% of the burglary victims caught burglars in the act, although few of the homeowners had guns, presumably because of generally low Canadian gun ownership. (Waller 1978). Even in connection with robberies, there is some opportunity for victims to use weapons to defend themselves.

In 3.5% of robberies reported to victimization surveyors in eight U.S. cities in 1971-72, victims admitted using weapons (not necessarily firearms) for self-protection (Yeager et al 1976). Presumably this is a conservative estimate, since many victims may be doubtful about the legality of their weapon use, and therefore reluctant to acknowledge it to government interviewers. It, of course, is a matter of personal judgement whether this is a sufficiently large frequency to justify gun ownership for self-defense. Nevertheless, many potential crime victims apparently want to have the option of defending themselves with firearms against criminals should the necessity arise, however rare such a situation may be. Regardless of how one may feel about the desirability of using guns for defensive purposes, it can not be claimed, on the basis of available evidence, that the belief in the protective efficacy of firearms is just the product of self-delusion.

Assumption Number 5:

> (The myth of the non-criminal killer). Homicides are largely unpredictable "crimes of passion" committed by ordinary individuals not distinguishable from other people. Everyone is potentially a killer and we can not tell in advance who is likely to kill and who is not. Therefore, control must be directed at all gun owners rather than select subgroups.

The position on gun control of the U.S. Conference of Mayors includes the following statement: "those who possess handguns can not be divided into criminals and qualified gun owners". (Yeager et al, 1976, p. xiii). The assumption is also made in the gun control positions of the AFL-CIO, Common Cause, and the Union of American Hebrew Congregation, among others (Alviani and Drake 1975, p. 50, 52, 54). This assumption is crucial to gun control proposals directed at all gun owners, rather than just those who misuse their guns. If it is false, then opponents of gun control may argue that such "blanket" measures unnecessarily (and unjustly) deprive and punish law-abiding people along with the criminals.

It is, of course, perfectly true that we can not identify in advance specific individuals who will kill (or assault), either with or without a gun. The predictive technology simply does not exist and is not likely to exist in the near future (see Wenk et al, 1972). And, it is trivially true that everyone is potentially a killer, in the sense that there is at least an infinitesimally small probability that any given person will commit a homicide. However, this does not mean that killers are randomly distributed through the population, or that some aggregates can not be divided, if we so choose into two distinct, non-overlapping groups: those who have been convicted of a felony (or more specifically, a violent felony) and those who have not. This is, in fact, a distinction already made in existing gun control law (for a summary of handgun law, see Barnes Company, 1974). For example, the 1968 Gun Control Act makes it a federal crime punishable by 2 years in prison for any convicted felon to possess a firearm (U.S. IRS, 1968, p. 8)

There is an imagery in gun control thinking of domestic homicides as being isolated outbursts of otherwise ordinary, non-violent, non-criminal persons. Because such homicides constitute such a large fraction of all U.S. homicides, gun control advocates argue that it therefore is important to restrict firearms among apparently law-abiding persons as well as among convicted felons.

This assumption has been phrased in a nicely explicit form by gun control advocate Leonard Berkowitz (1981, p. 11): "Gun control may not be too effective in protecting ordinary citizens against criminals or Presidents against assassins, but it may, nevertheless, save some ordinary citizens from other ordinary citizens like themselves."

Domestic homicides are in fact usually the culminating event in a series of violent episodes, many of which were serious enough to involve the police before the final, fatal encounter. A study of Kansas City killings found that 90% of the homicides had been preceded by past disturbances at the same address which were serious enough that the police had to be called in, with an average of five previous disturbance calls per address. (Wilt et al, 1977). Thus domestic killings are rarely isolated outbursts of previously non-violent people, but rather are usually part of a pattern of violence, engaged in by people who are known to the police, and presumably others, as violence-prone. Some marriages or family situations can thus be described as homicide-prone, and many are identifiable as such to the police, suggesting that many domestic homicides are in this sense predictable.

While it is highly debatable just how effective the enforcement of gun control laws could be, it is still worthwhile to attempt to evaluate the possible benefits of a policy assuming complete enforcement effectiveness. If gun control efforts could be effectively directed towards restricting ownership only among those with a prior felony conviction, to what degree could this reduce the homicide rate? The answer depends on the proportion of killers who have prior felony convictions since this is the maximum proportion of killers with a firearm who could be prevented from killing by an elimination of gun ownership among convicted felons.

Little published evidence is available on this exact question although there certainly must be ample relevant evidence buried in police and court records in various jurisdictions. The most representative available samples of known or suspected homicide offenders would be samples of homicide arrestees, since samples drawn at later points in the criminal justice process (e.g. samples of persons convicted or persons imprisoned) would be subject to case loss and various selection biases, including bias associated with prior criminal record (see Wolfgang, 1958: 11-13 on this general point). Unfortunately, there is little evidence concerning prior convictions for such samples. More usually, the data either concern prior arrests (and the proportion of arrestees with prior arrests would necessarily be larger than the proportion with prior felony convictions) or refer to samples of incarcerated persons, who would presumably be more recidivist than general samples of arrestees. Wolfgang (1958: 170-172, 183) reviewed earlier studies of the prior records of homicide offenders, most of them done in the 1930's and 1940's. In one sample of persons imprisoned for homocide offenses, 82% had previous criminal convictions, while the figure was 98% and 32% for two other similar samples. In a sample of persons convicted of homicide offenses, 43% had previous convictions. Regarding prior record of arrests, three studies indicated that 54%, 50% and 55%, respectively, of samples of homicide prisoners had previous arrests, while Wolfgang's own sample of homicide arrestees indicated that 64.4% had a record of prior arrests (p. 175). More recently the Careers in Crime data of the Uniform Crime Reports indicate that 77.9% of persons arrested for murder or non-negligent manslaughter in 1970 had previous arrests, and 50.1% had prior convictions (U.S. FBI 1971, p. 38). Among those homicide offenders arrested in the U.S. between 1970 and 1975, 67.6% had previous arrest records (U.S. FBI 1976, p. 43).

The FBI is rather vague about what types of crimes offenders were previously arrested or convicted for. However, in special computer runs for the 1968 Eisenhower Commission, it was determined that 74.7% of persons arrested between 1964 and 1967 for criminal homicide had a record of previous arrests for "a major violent crime or burglary" (Mulvihill et al, 1969, p. 530, 532). The Careers in Crime data can be questioned regarding sample representativeness, so some independent confirmation of these figures would be helpful. Data for New York City indicate that among those arrested for homicide in 1970, 64.7% had a prior arrest record and 40% had prior arrests for violent offenses (Shinnar and Shinnar, 1975, p. 596)

Considered as a whole, prior research evidence shows that the majority of homicide arrestees have prior arrest records. As a rough estimate, perhaps half of them have previous convictions of some sort, although the convictions were not necessarily for felonies. A reasonably conservative estime of the fraction of homicide offenders with prior felony convictions might be about one quarter. Therefore, gun control measures aimed strictly at eliminating possession of guns by persons with prior felony convictions could potentially prevent up to about one quarter of homicides, assuming there is no substitution of other weapons for guns. That fraction of killers could be identified in advance as inappropriate for gun ownership on the basis of prior criminal record, as recorded in data banks like that of the FBI's National Crime Information Center.

Further, it should be noted that felony killings account for an increasingly large fraction of U.S. homicides. In 1964, 17% of murders and non-negligent manslaughters were known, or suspected to be, the result of other felonious activities. In 1976, the figure was 28%. Among the known felony killings in 1976, 42% resulted from robberies (U.S. FBI, 1965: 1977, p. 10). If robbers are more likely to have criminal records than persons who commit non-felony killings, this suggests that the proportion of homicides committed by persons with prior felony convictions, who fit the popular stereotypes of a "real" criminal, is increasing. Therefore, the potential effect of well-enforced gun control policies aimed specifically at this group has been increasing as well. Assumption 5, is therefore, false to the extent that there is at least some significant potential for reducing homicide through measures aimed strictly at convicted felons. On the other hand, it remains to be seen whether these measures could be effectively enforced, how much substitution of non-prohibited weapons there would be, and how well private transfers (legal and illegal) of firearms from legal gun owners to felons could be prevented.

Conclusion

The social science evidence reviewed in this paper renders suspect some of the most crucial factual assumptions underlying arguments in favor of policies aimed at restricting the ownership of firearms. These assumptions have gone largely uncriticized and unquestioned by advocates of gun control measures and by social scientists working in the area of crime and violence. In this light, it is suggested that more thorough and rational evaluation of the potential consequences of suggested gun control policies is called for, with greater researcher attention being focussed on the issues we have discussed.

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Conceptual, Constitutional, Enforcement and Experiential Problems Involved in Mandatory Sentencing For the Unlicensed Carrying/Possession of Handguns.

by

Paul H. Blackman, Ph.D.
Research Coordinator
N.R.A. Institute for Legislative Action

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Among the "gun control" proposals being most actively pushed at the state level at the present time is a mandatory penalty--without probation, parole, furlough, suspended sentence, etc.--for the unlicensed carrying or possession of handguns (or all firearms). This scheme's proponents allege that persons possessing, carrying or transporting an unlicensed firearm are "looking for trouble," (Wilson-Moore) and should be deterred or penalized by a six-to-twelve month jail sentence. Such proposals could amount to a virtual gun owning or carrying ban by penalizing and discouraging handgun ownership. Indeed, the National Coalition to Ban Handguns terms the Massachusetts' Bartley-Fox mandatory penalty law as "similar" to the Washington, D.C., handgun ban in its 1981 fundraising letter.

There is a certain simplistic appeal to the mandatory penalty-for-possession law, if one assumes that peaceful citizens will comply with licensing and registration requirements before owning, carrying, or transporting handguns, and only potential or previously convicted felons would be affected by such a law. In addition, the proposal feeds on the popular support for mandatory penalties for use of a gun in commission of a violent crime--a measure supported by pro-gun groups since 1958 and supported by over 80% of the American public. (Caddell, 1978; Decision Making Information, 1979.)

Yet, the support for mandatory penalties for carrying or possessing firearms without requisite papers is based on numerous misconceptions about restrictive firearms laws and the circumstances affecting carrying. Mandatory penalties for possession or carrying call for a mandatory term in jail or prison for a victimless crime, although support frequently comes from persons who denounce such penalties for crimes which are mala in se. The penalty clearly interferes with the discretion of judges, something generally opposed by the judicial community as well as by criminologists--at least when dealing with other issues, e.g., drug and prostitution laws, robbery and rape. In addition, there are numerous civil liberties problems involved in enforcing laws against the possession, transportion, or carrying of items which are generally concealable, especially where the enforcement may become more proactive than reactive. (See Wilson-Moore)

In Massachusetts, New York, and Canada, which have enacted such legislation, criminologists have some opportunity to evaluate the real problems against the alleged effectiveness of the measure as a crime control device. Massachusetts enacted its Bartley-Fox law in 1974; New York enacted the Koch-Carey version of a mandatory for possession law and a mandatory penalty for using a gun to commit a violent crime in mid-1980; Canada enacted a similar law in 1977. Connecticut adopted a mandatory penalty law for unlicensed carrying in 1981; its current law, however, readily enables most law-abiding citizens to obtain licenses to carry, and the law is too recent to evaluate. Since both Canada and New York adopted both pro-gun and anti-gun statutes--mandatory penalties for those non-violently carrying handguns and for those violently misusing them--statistical studies of the laws' effects on crime is virtually impossible.

Massachusetts adopted a mandatory penalty for carrying although most residents of large cities cannot possibly obtain a license. Only Massachusetts has had the mandatory penalty law long enough to measure its impact on police, prosecutors, judges, and violent crime -- but not, according to the studies, for murder. (Beha: 103, 129-30; Rossman: 201; Deutsch) And even with Massachusetts, the studies to date have been expressly unable to firmly attribute any effects on violent crime to the law itself as opposed to publicity about the law. (Beha: 104; Pierce-Bowers: 137)

The Massachusetts experience with Bartley-Fox will be discussed more specifically later. For the moment, the effects of Bartley-Fox according to the two major studies (Beha, Rossman) are as follows: Although police have deliberately avoided stopping, frisking, and arresting some peaceful citizens for Bartley-Fox violations, persons without criminal records or with misdemeanor records are now more likely to be arrested and charged with unlicensed carrying of firearms. Judges tend to decide constitutional and other legal questions in favor of defendants, who are more inclined to plead not guilty, to appeal convictions, and who generally win either at the first or appellate trial appearance. As a result, the number of persons actually sentenced for unlicensed carrying has remained stable--but the likelihood is now greater that the number will include persons without previous records. Both before and after Bartley-Fox, in Boston as in other cities, blacks and other minority-group members compose a disproportionate number of those arrested, charged, convicted, and sentenced for firearms violations.

Since adoption of the Bartley-Fox law, violent crime has risen dramatically, led by aggravated assault. Robbery has been unaffected overall; however, the type of robbery most expected to be affected by Bartley-Fox--street robbery where a gun is used--actually increased. The murder rate decreased largely back to the Massachusetts norm following two abnormally murderous years (1973-74). At that, the Massachusetts murder rate paralleled the other New England states. However, murder data are insignificant for any valid statistical analysis in the near future. Interestingly, at least one Massachusetts city which clearly refused to comply with the Bartley-Fox law--Springfield--saw violent crime rise slower than the city of Boston, which uses Bartley-Fox more extensively.

Despite the constitutional problems involved in enforcing laws against carrying or possession, its supporters advocate gun law enforcement policies which would severely diminish the protections accorded by the Fourth Amendment. Clearly, such mandatory penalties call for at least some thoughtful examination by criminologists and others concerned with both reducing crime and preserving civil liberties.

Conceptual, Constitutional, and Enforcement Problems Involved in Carrying/Possession and Their Regulation

Mandatory penalty proposals may be directed at either the unlicensed carrying or possession of firearms, although supporters have wanted the law to apply to both, but compromised on initial application only to carrying. The latter was true in Massachusetts and New York, with supporters seeking to have possession covered as well, and to sharply restrict if not prohibit firearm possession to all but law enforcement personnel and security guards.

Much of the debate surrounding mandatory penalties for unlicensed carrying ignores both the legal meaning of carrying and the difficulties in carrying lawfully. State laws vary considerably in what is meant by "carrying." In Massachusetts, for example, it is possession plus movement, which applies to transportation as well as to what commonly is thought of as carrying (being on the person and readily accessible to him). Much transportation of handguns--and long guns as well--legally involves carrying.

And the laws for obtaining permits to transport or carry vary considerably from state to state and in different jurisdictions within states. Only a few states, like Connecticut, require authorities to issue licenses to carry to all applicants unless they are prohibited by statute. Therefore, Connecticut's mandatory penalty should be much more limited in its application than the New York or Massachusetts laws, unless the police arbitrarily or generally refuse to issue licenses to carry. In many jurisdictions, either no permits to carry exist, save informally by making prospective carriers deputy sheriffs, or they are rarely issued. Such a policy or law clearly puts gun owners in a "Catch 22" situation if it is virtually impossible to obtain a carrying license, yet unauthorized carrying is punished by a mandatory jail sentence.

Most discussions about carrying of handguns are rife with ignorance regarding who carries and why. Many persons may assume only police, security guards, and criminals or would-be criminals carry handguns. In fact, surveys indicate that large numbers of citizens carry handguns for protection at some time or another.[2] The Caddell survey suggests that 12 million adult Americans have carried handguns for protection at some time. And a Florida survey (Burr, 1977) found that about one-third of those who carry in Florida do so on a regular (daily) basis. Projecting this proportion to the nation as a whole, about four million Americans carry handguns for protection on a regular basis. Assuming no more than 1.5 million of those are public or private cops (Wright: ch. 4), about 2.5 million American adults may carry handguns regularly for protection. Although there are no national data available, carrying is prohibited or sharply restricted in enough states so that much of the carrying for protection is unauthorized.

Persons carry because they are afraid of crime. If they are wealthy or influential, they can probably obtain a license. (Kates, 1981) Many of the middle and lower class, without comparable influence, must decide between carrying without authorization or risking their lives and property to persons disinclined to obey laws against violent crime. Judges have used their discretion to release gun-law violators because these are frequently persons without previous records, forced to traverse unsafe sections of town at times when crime thrives--persons caught largely by chance by the very authorities who are unable to protect them from violent criminals.[3] (Kates, 1981; Shields) The persons arrested for firearms violations are disproportionately poor and black. Supporters of mandatory penalties, however, mistakenly perceive carriers as looking for trouble rather than security. (Wilson-Moore; Pierce-Bowers: 121-22)

In evaluating a mandatory penalty law for the unlicensed carrying of a firearm, it is also important to consider the types of crimes targeted. First, only gun-related violent crime is targeted, ignoring more than 90% of violent crime (based on U.S. Dept. of Justice victimization surveys). Second, unless juveniles are tried in adult court, gun-related violent crime committed by juveniles is excluded. Third, since the penalty applies only to carrying outside home or place of business, upwards of a third of murders and aggravated assaults, and other gun-related violent crimes, committed by adults in their homes and some other indoor locations are not covered. And other technical procedures prevent applying the mandatory penalty for carrying to most gun-related violent crimes. In Massachusetts, for example, it would be necessary to prove that the gun was capable of firing. It might not be possible to prove that unregistered guns were carried by perpetrators in violent crimes in the homes or business of others, particularly acquaintances, and the like. Because of the restrictions, the Massachusetts law could only be charged against one-sixth to one-fifth of prosecutions involving gun-armed robbery and one-fourth overall of those charged with gun-related violent crimes. (Beha: 46; Rossman: 294)

The mandatory penalty for carrying is aimed primarily at outdoor and public-place aggravated assaults and spur-of-the-moment robberies (since most

Mandatory penalties for possession or carrying of handguns creates a mandatory penalty for a *malum prohibitum* offense. While is is difficult to contemplate extenuating circumstances for armed robbery, it is relatively easy to imagine circumstances where carrying a handgun without a license had extenuating circumstances. (Beha; Rossman; Kates, 1979 and 1981.) Indeed, the first Massachusetts and New York City arrests both provided examples of such cases: Boston police arrested an elderly lady distributing pamphlets in an unsafe part of town and New York police arrested an Ohio truck driver coming to the defense of an apparent kidnap victim.

Violations of restrictive gun laws are about the only victimless, non-violent offenses, for which mandatory penalties have been either proposed or enacted.[6] Gun law violations are, after all, *mala prohibita*, not *mala in se*. Unlike murder or robbery or rape or assault, with or without a firearm, there is nothing in and of itself wrong in carrying a handgun. Mandating imprisonment for a gun law violation is inherently excessive, especially since imprisonment is not mandated for violent *mala in se* crimes. Mandating a year's imprisonment for carrying a gun without a license is clearly unjust in a state, like Massachusetts, where there is no mandatory minimum prison term for rape, robbery, or murder.

Mandatory penalties invite additional police discretion although society is concerned about the potential for abuse of discretion by police (Skolnick). Mandatory penalties, while restricting the discretion of judges, transfer discretion to police: to stop and frisk, to arrest, and to charge. Following the enactment of Bartley-Fox, Boston police acknowledged modifying their decisions on whom to stop and frisk for fear of apprehending otherwise honest citizens. Police exercised discretion with both suspects and type of charge, if any, levied. (Rossman: 218-19) In addition, although not recognized by Beha or Rossman, police were in a position to confiscate firearms without either arresting persons or reporting guns seized with less chance of objection from those caught carrying. Such expanded police power invites violations of the equal protection clause and the improper and discriminatory enforcement of the law by police. Beha and Rossman note that while police did not stop more blacks once Bartley-Fox took effect, in the city which is about 20% black, blacks comprised over half of the persons arrested for unlicensed carrying of firearms.

An additional problem with mandatory penalty provisions for unlicensed carrying involves the "search and seizure" problems attached to the enforcement of such laws. Bendis and Balkin have noted the difficulty of enforcing carrying laws, especially where the crime is concealed carrying rather than carrying openly. It is difficult for police constitutionally to learn of a concealed firearm. Thus, improperly found and seized firearms represent a substantial portion of gun cases which are dismissed (Kates, 1979: 195; Bendis and Balkin; Brill, 1981). And without a mandatory minimum penalty for possessing or carrying, a criminal might be willing to plea bargain an offense despite improper seizure of a gun; the mandatory penalty provision, however, may force such persons to fight and win in court. Thus the mandatory penalty provision has the unwanted effect of making it more difficult to punish career criminals for unlawful carrying (Brill, 1981).

Those calling for increased police measures to apprehend unlicensed handgun carriers show very little concern for Fourth Amendment rights. The Police Foundation, Professors James Wilson and Mark Moore, and others call for essentially police-state tactics for eradicating the unlicensed carrying of handguns in this country. (Wilson-Moore, *New York Times*, *U.S. News & World Report*, etc.) They call for the development and deployment of metal detectors for police to subject citizens on the streets to an arbitrary search to detect firearms. Any positive reaction by the device would justify a personal search to determine whether the metal was a knife, gun, calculator, keys, coins, or some other object. As with airline metal detectors, there would be many more body searches "justified" by metal detectors than would be likely to produce unlicensed weapons. If accepted, the Fourth Amendment, outside of the home or office, would, in effect, be repealed. Yet the silence of the civil libertarians is deafening.

robbers who plan, and are willing to risk the greater penalties for armed robbery, will be undeterred by a mandatory penalties law against illegally carrying a firearm). Only street robbery, the least planned of robberies, might be expected to be discouraged by a mandatory law against carrying without a license. The law is primarily aimed at adult outdoor/public place aggravated assault--a less planned offense, for which the six month or one year minimum mandatory penalty may be greater than that otherwise imposed for the offense. (See Loftin-McDowall, Beha, Rossman, Pierce-Bowers.) In evaluating the desirability of such mandatory penalties based on the crimes targeted--street robbery, assault, assault-related murder--, it should be remembered that gun-related personal robbery and assault are much less likely to result in injury than non-gun robberies and assaults. (U.S. Dept. of Justice victimization surveys, "Myths," etc.)

Mandatory penalties for carrying then are aimed at only a small amount of the violent crime in the nation, and only at a relatively small amount of the gun-related violent crime.[4] The law largely affects the vast majority of the persons who, driven by the fear of being victimized, carry without a license. Too many of those arrested, as Beha noted (176) are "false positives"--with guns but non-criminal.[5] The law can only rarely be applied to persons who actually use guns to commit violent crimes. As Beha noted (69): "We know from the basic pattern of the sample that more than half of those charged with various firearm violations were arrested in circumstances which justified the bringing of no other charges. Several, in fact, were arrested when they reported the occurrence of crimes of which they had been the victims!" Under those circumstances, the question is whether there should be any penalty, not whether it should be mandatory.

A final problem with the concept of mandatory penalties, from the perspective of gun owners, is the ultimate purpose of such a law. Many of the advocates of mandatory penalties favor sharper restrictions on handgun ownership if not a total ban (Senator Kennedy, National Coalition to Ban Handguns, Mass. Speaker Bartley of Bartley-Fox [Rossman: 221], et al.) Polls indicate that such a ban would be widely violated. (Decision Making Information, 1975 and 1979; Kates, 1981; Bordua) And the advocates further would make obtaining a license to carry more difficult. The Kennedy-Rodino bill (S. 974; HR. 3200) in the 97th Congress, for example, calls for stricter state licensing laws than currently exist in any state in the union and require that the laws be enforced with a mandatory penalty for violating the carrying provisions.

Pro-gun individuals and organizations are thus concerned about (a) expanding the "Catch-22"--imposing a mandatory penalty for an unlicensed firearm when a license is all but unobtainable, and (b) mandatory penalties' being expanded to cover possession as well as carrying, in conjunction with legislation curbing authorized possession of handguns. These concerns are justified given, for example, that Mayor Koch called for mandatory penalties for possession at a time when the city of New York reportedly allowed the possession of only 40,000 handguns and the police estimated 1-2 million illegal handguns.

The concept appears, thus, to be aimed primarily at otherwise law-abiding, non-violent members of society. The mandatory penalty for unlicensed carrying is not aimed at professional criminals but at spontaneous crime; expanding the concept by narrowing licensing and/or applying the law to (restricted) ownership would similarly be aimed not at professional criminals. For the professional criminal, six months or one year is a smaller price than would be paid for the violent crime itself. A mandatory penalty would deter only generally honest citizens. It has been said that gun laws can only be enforced by making the average man more afraid of his government than he is of criminals. Mandatory penalties appear to be a step in that direction--and for a victimless crime.

Curiously, persons who see no relationship between drug use or prostitution and violent crime sufficient to punish those "victimless crimes" believe gun ownership or carrying so closely tied to violent crime as to support restrictive gun laws thereby creating victimless crimes. (See Kessler; Kates, 1981.)

The "equal protection" issues raised are considerable. While police tend to arrest blacks disproportionately for carrying firearms unlawfully, the mandatory penalty limits judicial discretion to counter any possible racism in enforcement. Equal protection is also involved in laws passed statewide but enforced with gusto only in cities--the discrimination being against city residents. Discriminatory enforcement also prevails in cities like Boston where it is virtually impossible to obtain a license to legally carry a firearm. If the only difference between qualifying for a license and not qualifying is the prejudice of the police chief, judge or other authorizing agent against applicants based on wealth, race, occupation, or residence--mandatory penalties for carrying without a license raises some further "equal protection" questions.

Inescapably, the judicial system is impacted by the mandatory penalty laws through increased caseloads. Mandatory penalties almost automatically assure that guilty pleas are a thing of the past. Instead of a possibly warranted wrist-slap following a guilty plea, persons without serious criminal backgrounds will fight prosecution, insist upon a jury trial, appeal whenever possible, and raise more technical and evidentiary issues at trial. The time between arrest and final judicial determination of guilt and sentencing will expand. And it will, overall, cost the state more to prosecute a person for unlicensed carrying of a firearm than for many violent crimes.

The Massachusetts Experience

Is it all worth it? Are the risks of constitutionally dubious police behavior and more expensive, less successful, judicial proceedings worth the goal of discouraging some unlicensed carrying of handguns? The Massachusetts experience would suggest not. Although constitutional violations were not as numerous as many feared, violent crime rose, judicial proceedings were slowed and less likely to result in conviction, and any deterrent effect on criminal gun misuse was short-lived.

The judiciary was not overburdened partly since Boston police were not as enthusiastic about confiscating firearms as in some other cities. (Brill, 1977: ch. 2; Beha: 21-22) Where police enforcement is more aggressive, as in Chicago and as is being sought in New York, special courts are needed just to handle gun-law violations. With mandatory penalties, those courts could not act so expeditiously as in Chicago, where many cases are thrown out because of improperly seized guns and most offenders let off without prison time. (Bendis and Balkin, Shields)

The lack of information about guns seized, the misunderstanding of police personnel attitudes towards privately owned or carried firearms, and the lack of information about police gun seizures and enforcement tactics are but a few of the problems in analyzing the Massachusetts experience.

Both the major studies of Massachusetts' Bartley-Fox law and its effects -- the Harvard study (Beha) and the Boston University study (Rossman -- including Pierce-Bowers) -- recognize certain data limitations. Both studies emphasize Boston, while recognizing it is atypical of Massachusetts (Beha: 25, 101), and which had a "major violators" project commencing just after Bartley-Fox. (Beha: 188) Even Pierce and Bowers recognize limitations on their data sources and the accuracy of conclusions -- particularly regarding murder -- in their formal studies. For example, Pierce and Bowers admit they considered no factors in comparisons with other jurisdictions except jurisdiction and number of persons and crimes. (Rossman: 178) Most of the flaws -- especially of Pierce and Bowers -- were never revealed to the media and the public; thus, Bartley-Fox is perceived as being beneficent rather than either innocuous or dangerous in the development of public policy. Although the Bartley-Fox Law received widespread media attention and support to encourage its enactment in other states, it is not at all clear that Bartley-Fox is exportable, given Massachusetts' criminal justice system. And, significantly, Massachusetts has never had the problem with juvenile gun-related crime as such places as New York and California.

The serious limitations of the law and findings of these studies, however, are not in the potential differences between Massachusetts and likely imitators. The major limitations are in data -- their availability to Harvard and Boston University and their use by the studies' authors. As noted, the limitations are generally admitted: the studies were conducted shortly after Bartley-Fox took effect, and after a massive publicity campaign. No one knows whether any possible impact on carrying habits or violent crime were due to publicity or law; publicity is suspected since the decreases in gun use in violent crime occurred before the laws took effect.[8]

Other data limitations included: reluctance to interview some judges or prosecutors, particularly with ongoing cases; refusal of some attorneys to be interviewed; lack of accurately reported crime data, particularly for 1974 (the last year before Bartley-Fox) and before, in Boston, the state, and comparative jurisdictions; lack of cities comparable to Boston (New England lacks any other city over 250,000; the rest of the Northeast lacks any cities in Boston's 500,000 to 1,000,000 category); and the murder statistics are small enough to escape statistical significance for most change until at least several years have passed.

Other limitations are less forgivable, such as overlooking the appropriate data, restrictive use of data, and the like. For example, Bartley-Fox applied only to firearms outside the home or place of business -- that is, to carried firearms. Under the circumstances, the location of crime was important, but received little attention from Beha and less from Pierce and Bowers. Both studies recognized that assault-related murder was more targeted than felony-related (except street robbery, etc.) homicide but neither looked to location. And one could not accurately assume that the crimes curtailed were those targeted: street robbery rose between 1974 and 1977 (Rossman: 137-143, Tables 37-39), both overall and as a percentage of Boston robbery, with gun-related street robbery increasing faster than non-gun armed street robbery.

The Pierce-Bowers work -- the most deficient study involving Bartley-Fox -- is coincidentally the most popular with the media and "gun control" advocates.[9] Its failures include deliberate distortions and limitations on data bases, indifference to the relevance of Bartley-Fox to the crimes studied, clear statistical errors, and public release without caveat with unsubstantiated findings. For example, the customary way of determining crime rates is dividing crime by population. It is possible, however, to find population if the number of crimes and the rate are given. Using the gun crime rates from Pierce-Bowers and the number of gun assaults and robberies from Rossman, however, yields a Boston population falling from about 617,000 to 612,000 from 1974 to 1976 for robbery and rising from about 587,000 to 610,000 for assault. That degree of variance is unacceptable.

The Pierce-Bowers study of armed assault and armed robbery is supposedly based on FBI data collected from 1967 to 1976, for Boston, non-Boston Massachusetts, selected counties, New England states, and various other jurisdictions. Yet, Pierce and Bowers disregarded any jurisdiction which did not report their crime data consistently to the FBI for the ten-year period, and used armed assault and armed robbery data instead of the more generally used -- and more readily verifiable and comparable -- aggravated assault and robbery data.

This intended limitation results in unrepresentative and hence irrelevant crime comparisons. Pierce and Bowers admit, for example, that their sample accounts for only three-fourths of Massachusetts assault (Rossman: 54); they are impervious to the fact that once Boston is taken into account, their non-Boston Massachusetts data are based on less than half of the state. Indeed, based on differences from published FBI data, the Pierce and Bowers non-Massachusetts control jurisdiction data are even less representative of those jurisdictions as a whole than the Massachusetts data used are of Massachusetts as a whole.[10] Nothing in their longer (Rossman) or shorter (Pierce-Bowers) analysis cautions that their data are limited or makes any effort to account for the unused cities, towns, and counties. And, since the jurisdictions used are not revealed, there is no way to check either their crime data or their population data.

Pierce and Bowers' highly selective use of homicide data is equally flawed. Allegedly for reasons of inconsistent FBI reporting, Pierce and Bowers disregard all jurisdictions used for assault and robbery, and focus only on Boston and selected big cities for the homicide analysis. Had the authors focused on Massachusetts and non-Boston Massachusetts for murder, as for the other violent crimes, the study would show a relatively unchanging murder rate (compared to the rest of the region and its states) or a comparatively increasing murder rate. Just as robbery and assault data did not make Bartley-Fox appear beneficial, the homicide rate would do little to prove the efficacy of Bartley-Fox.

Murder data are the most difficult trends to study given a limited statistical base. This is especially true in New England, where murder is less common an occurrence than in other states, cities and regions. Beha (125-26, 149; Rossman: 201) noted the impossibility of analyzing murder with such a small base and short period of time and instead emphasized assault and robbery. Yet Pierce and Bowers inexplicably decreased their data base by half in analyzing homicide rates to the extent that the use of rates was no longer possible. (Rates automatically require two factors, crime and population, and minimizing the available data base destroyed any pretense of statistical significance using more than one factor.)

Further, the authors did not even analyze the location of the homicides under study. By way of looking for Bartley-Fox relationships, the authors merely separated out felony-related from argument-related homicides. Such an approach is grossly deficient. Yet Pierce and Bowers based their entire analysis on the benefits of Bartley-Fox on their analysis of murder in Boston, rejecting the rest of the state and the relevancy of Bartley-Fox (i.e., carrying) to the Boston murders being considered.

Other errors are largely matters of interpretation. For example, the fact that non-gun homicide fell disproportionately in Boston might suggest that a law directed only at firearms might not be the cause. This was the conclusion reached by Loftin and McDowall. However, Pierce and Bowers (136) view the reduction as showing that gun murders were deterred without being displaced by other weapons. The fact that the data from 1971-72 compared to 1975-76 could indicate a reversion to normal crime following two atypically violent years (1973-74), is simply ignored. And data which did not square with the presumed effects of Bartley-Fox is simply passed over. Pierce and Bowers may have suspected that persons deterred from carrying guns might substitute knives, but they did not pursue the matter when data showed little displacement of gun assault by knife assault. (Rossman: 90-95) They do call it "anomalous," but that falls short of explanation.[11] And they may have expected street robbery to be the kind most deterred by Bartley-Fox type legislation, but the rise (absolute and relative) in street robbery is not evaluated.

In short, two major studies of the Bartley-Fox law have data limitations which render most conclusions tentative at best. For the most part, Beha and Rossman recognize this problem, Pierce and Bowers do not. And the Pierce and Bowers data limitations make it difficult to accept their conclusions even tentatively. Too much of their study is based on FBI data from parts of jurisdictions which may or may not be representative of the whole; indeed, most of those jurisdictions appear to be unrepresentative. Comparisons of the fluctuations in crime, or of gun use in crime, in unrepresentative segments of different jurisdiction tell us little or nothing about overall crime trends or gun-use trends. Recognizing the difficulties of any comparisons, the following tentative conclusions may be reached about the affects of Bartley-Fox in Boston and the rest of Massachusetts.

Violent Crime

Overall, violent crime rose in Massachusetts disproportionately faster than the rest of the region, and Boston crime faster than other large cities. For example, Boston had ranked as the nation's fifth most violent city with over 500,000 population prior to the enactment of Bartley-Fox, but rose to first place in 1980; Massachusetts rose from 19th most violent state to 12th nationwide. Conversely, most states with mandatory penalties for using guns to commit violent crimes saw either relatively slower rates of violent crime increase, or actual decreases in violent crime.

Interestingly, at least one Massachusetts city refused to use Bartley-Fox (Rossman: 266). Springfield simply stopped charging persons with unlicensed carrying, instead using possession charges under which as severe penalties could--but need not--be imposed. Violent crime rose in Springfield, but not as fast as in Boston; Boston, of course, used Bartley-Fox.

The murder rates are the least conducive for short-term analysis. Beha (129-30) and Deutsch noted the impossibility of soon, if ever, being able to attribute any murder trends to Bartley-Fox. Pierce and Bowers similarly recognize the limitation but nonetheless based their support for Bartley-Fox almost solely on its alleged impact on murder.

Beha (133-34) and Rossman (161-65), suspected that reduction in murder attributed to Bartley-Fox may have occurred more as a result of unusually high rates of murder in 1973 and 1974, and post-Bartley-Fox murder drop simply indicated a regression to the mean.[12] Comparing 1971-72 with 1975-76, the data would indicate that was precisely what occurred. (Rossman: 152-62, Tables 40-45). Murder fell 8% in Boston, but 14% in the comparison cities of the Middle Atlantic, with gun homicides down 18% and 19% respectively. The drop was slightly greater for assault-precipitated gun homicide in Boston than in the comparison cities, but not significantly--and the restriction itself renders comparisons suspect. Reversion to the norm is similarly indicated in the gun assault data as well (Rossman: 50-53, Tables 1-4).

Overall, the period since 1974 has seen murder in Massachusetts generally simply reflect regional murder trends, dropping insignificantly in Massachusetts compared to other states. In short, there is no trend in homicide which can reasonably be attributed to Bartley-Fox, and any attempts to draw conclusions are deceptive.

Robbery and aggravated assault provide more statistical data, and somewhat curious trends. Aggravated assault with a gun, for example, fell dramatically during the first part of 1975 (the first year of Bartley-Fox), with the drop coming before the law took effect; gun related robbery, on the other hand, fell briefly in 1976 and rose again by 1977. It is difficult to find any satisfactory explanation for this phenomenon.[13]

Ironically, commercial robbery decreased (Rossman: 139-41, Tables 37-39), while street robbery increased, particularly street robbery with a gun. Bartley-Fox was not expected to affect commercial robbery, since the commercial establishments could still use guns (legally or illegally owned) for protection without facing a mandatory penalty. In addition, commercial robbery is more planned than street robbery and no one expected the one-year mandatory penalty to deter persons willing to risk sentencing for robbery.

Trends in unarmed robbery or muggings in Boston are equally ambiguous. Between 1974 and 1977, the number of gun robberies decreased 34% and other armed robbery 8%, but the number of unarmed robberies fell 21%. Unarmed robbery is more likely than armed robbery to be street robbery as opposed to commercial (Cook: 74), yet unarmed robbery fell substantially at a time when street robbery (armed with or without a gun), was increasing. Why would Boston's unarmed robbery fall so much faster? faster even than other cities' drops in gun and non-gun armed robberies (Pierce-Bowers: 133)? Relatively speaking, it looks as if previously unarmed Boston robbers were turning from muggings to the use of weapons other than guns.

After Bartley-Fox, then, the robbery rate remained unaffected, with a slight decline in gun use in the robberies least likely to be impacted by a mandatory penalty for carrying a gun. Pierce and Bowers (Rossman: Section 2; Pierce-Bowers) find no overall impact of Bartley-Fox on robbery; neither they nor Beha (139-40) really expected any impact. Any displacement from guns to other weapons appeared to be short term. Neither the Harvard nor the Boston University study was concerned about the fact that non-gun robberies are more likely to result in injury than gun-related robberies. Any impact on robbery-related murder is virtually impossible to measure. Rossman (162, Table 45), shows an increase relative to the 1971-72 period and a decrease relative to 1973-74. Little, however, can be derived from these insignificant numbers. Furthermore, the figures are for felony-related murder, much of which, but not all of which, involves robbery. More detailed data over a longer period of time would be necessary to measure an impact on robbery-related murder than on murder overall.

The Bartley-Fox law was allegedly devised to discourage aggravated assault on the street on the assumption that gun assaults are more dangerous than non-gun aggravated assault. Again, since the studies generally ignore the fact that injury is more likely to result from non-gun than from gun-related aggravated assault, Bartley-Fox is deemed beneficial while causing a dramatic increase in armed assault. More insightful scholars would have studied data on assault-injury rate trends to evaluate the effects of Bartley-Fox on decreasing, or more likely increasing, the assault injury rate.

The deterrent effect (reducing gun use) was more than made up for by the displacement effect (substituting other weapons), especially in Boston. Gun assaults decreased more outside than in Boston (Rossman: 51,68, Tables 2 and 8) and the greatest reduction occurred before Bartley-Fox took effect. Yet (a) some of the areas outside Boston announced they were not going to use Bartley-Fox, at least not so much as Boston itself, and (b) obtaining a license to carry is generally easier in non-Boston Massachusetts than in Boston.

Assault, one of the crimes most targeted by Bartley-Fox, rose substantially once that law took effect, and increased more in Boston than in the rest of the state or than in comparable jurisdictions. Given the dramatic rise in overall violent crime, it is difficult to view the law as of tremendous, or of any, benefit to the citizens of the Bay State. In short, an increase in assault might have been predicted and proven acceptable if Bartley-Fox could reduce the amount of assault-related murder. So far, however, that reduction has not occurred--or at least has not been shown to have occurred. And non-fatal injuries from assault almost certainly increased if other weapons, or no weapons, were substituted for guns. (Rossman: 192; "Myths")

Police, Prosecutors, Courts, Sentences

The impact of Bartley-Fox on the criminal justice system has been little and not beneficial. About the same number of persons were sentenced for the illegal carrying of firearms as before, and the number--emphasizing Boston in the Rossman study--was small.

Police apparently were less likely to frisk persons than before to avoid apprehending peaceful citizen for violating the law (Rossman: 213-214). And police were more likely to seize guns--especially in the home--without arrest; Rossman suggests some "found" guns may also have been seizures without arrest (218-19). And police tend to charge persons with a non-mandatory possession charge rather than Bartley-Fox. (Rossman: 290)

Neither the Harvard nor the Boston University study found any increase in arrests of blacks under Bartley-Fox, nor a tendency to charge blacks more than whites with carrying instead of possession violations. On the other hand, both give data showing that blacks are disproportionately arrested and charged. Blacks comprise about 20% of the population, yet they account for 50-60% of the arrests both before and after the enactment of Bartley-Fox. (Beha: A-31; Rossman: 301)

Although supporters of Bartley-Fox hoped that the mandatory sentence for carrying would be added to charges against gun-wielding criminals who committed a violent crime, that rarely occurs. Similarly, most carrying charges are not related to commission of a violent crime. (Beha: 41) Beha (46) found Bartley-Fox charges could only be brought against one-fifth of robbers using guns; Rossman (294) found an even lower 15% of gun-related robbers against whom Bartley-Fox charges could be brought.[14] Perhaps worse, the likelihood of dismissal, acquittal, or appeal increased (relative to pre-Bartley-Fox years) when charges of serious felony were joined with carrying violation charges (Rossman: 378-80).

In general, Bartley-Fox increased the burdens on the courts when carrying charges were brought. (Beha: xiii, 49, 63-64, 163, 172-73) The time between arrest and final disposition expanded. (Beha: 172-75) Cases were harder to prove. "A high proportion of Bartley-Fox cases foundered on evidentiary shoals." (Beha: 171) Before Bartley-Fox, 31% of those charged with carrying were convicted but did not appeal; that percentage fell to 5% in 1975 and 2% in 1976. The percentage of those charged who were convicted and then appealed rose from 8% to 29% to 32%. (Rossman: 352-54) The number of appeals was 2-3 times higher in 1975 and 1976 than in 1974. (Rossman: 386) And it must be noted that appeal in Massachusetts is not a riskless affair. The illegal carrying of firearms may be sentenced by mandatory one-year jail term, but it can be punished by up to 2 1/2 years; appealing for trial de novo technically risks a longer sentence upon conviction. More persons were charged for carrying prior to Bartley-Fox--the number sentenced fell from 109 to 50 to 26 in Boston during the 1974-76 period. (Rossman, 352-54) And the number receiving a jail sentence remained almost unchanged, save for a 1975 spurt,[15] with 25 in 1974 and 23 in 1976 (Rossman: 357). Prior to Bartley-Fox, however, certain persons not jailed remained under the supervision of the court; that can no longer be the case where sentences cannot be suspended (Rossman: 360).

At the superior court level--where appeals were taken for new trials--the situation was the same. More acquittals and pleas to lesser charges, a greater tendency of judges to be more sympathetic to the legal and extra-legal charges of the defense attorneys, resulted in an actual decrease in the number of persons found guilty or pleading guilty to carrying violations and sentenced as such (not concurrent with a longer term), from 17 in 1974 to 13 in 1976 (Rossman: 391-93, 408).

That approximately the same number of persons were sentenced to jail after Bartley-Fox as before may actually indicate that ~~carrying laws were~~ used less on violent career criminals than before the law took effect. The number of persons without records, or without serious records, increased after Bartley-Fox (Beha: 69). If the percentage convicted similarly rose, then Bartley-Fox had the net effect of jailing fewer career criminals on carrying charges than prior to the law. Perhaps criminals were using guns more after 1976 because they had learned that Bartley-Fox was a greater threat to their potential victims--disarming them for safer street robberies--than to the violent criminals themselves. If Massachusetts simply disarmed potential victims, or led to their arrest on gun charges (Beha: 69), it would explain--as the Rossman study fails to -- the otherwise inexplicable increased criminal preference for street robbery.

In conclusion, these "studies" on the exemplary "mandatory penalty for carrying" law show that the Bartley-Fox law does not reduce the amount of violent crime, or affect robbery or affect the murder rate. It seems only to increase the number and injury-related aggravated assaults, and to lessen the threat of the criminal justice system to career criminals than before the law took effect. The number arrested, charged, convicted, and sentenced remained too small--estimates put the number for two years from Boston at 40 persons, during which time over 20,000 violent crimes were committed--to have an impact on the crime, criminal carrying, or most casual carrying. Laws enforceable largely by fluke cannot effectively play a large role in the repertoire of effective modern law enforcement. The alternative, a proactive gun law enforcement effort limiting Fourth Amendment protections, should not play a role in American law enforcement.

Notes

[1] Mandatory penalties for using guns to commit violent crimes are not as popular among sociologists and criminologists as mandatory penalties for persons carrying or possessing guns without authority. Academia appears more interested in attacking mandatory penalties for use (Loftin-McDowall) and defending mandatory penalties for carrying (Beha, Rossman, Pierce-Bowers, and those uncritically praising Pierce-Bowers: Cook; Wright).

In fact, during the Bartley-Fox comparative years--1974 to 1980--violent crime in general and murder in particular decreased more in such mandatory-for-misuse states as Michigan, Maryland, Virginia, South Carolina than in Massachusetts, with its mandatory penalty for carrying.

(Throughout this paper, the issue will be discussed in terms of mandatory penalties for carrying handguns. Although Beha and Rossman believe the legal change affecting rifles and shotguns statistically irrelevant, in point of fact, the Massachusetts law mandates a year's imprisonment or jail (without probation, suspended sentence, good time, furlough, etc.) for anyone convicted of the unauthorized carrying of not just handguns, but also rifles, shotguns, and air guns. A difference is that long guns may be carried legally by persons with an FID--firearm identification card--which police are obligated to issue to all but prohibited classes of people. Handguns may only be carried legally by persons with a license to carry; an FID is insufficient to do more than possess.)

The Loftin-McDowall and Pierce-Bowers approaches to mandatory penalties are interesting. Pierce-Bowers view disproportionate decreases in non-gun crime in Boston as showing that deterrence of gun carrying was not followed by displacement to other weapons, justifying their conclusion that the gun law worked. Loftin-McDowall view the significant drop in non-gun violent crime as proof the gun law was not the cause of the overall crime drop.

Actually, a mandatory penalty for use should logically be expected to affect all sentencing for violent crime and hence potentially discourage all types of violent crime. Judges, forced by law to sentence gun-wielding violent criminals to minimum terms, will be inclined to sentence equally vicious but gunless violent criminals to comparable terms, lengthening overall sentences. A mandatory penalty for carrying, being a substantially shorter sentence, should have that effect only--potentially--on assault cases, not robbery, rape, or murder. If Loftin-McDowall found overall increases in sentencing for armed robbery, the overall robbery decrease in Detroit would be more explained more than Pierce-Bowers' non-gun murder decline in Boston.

A second difference in approach deals with the time the law took effect. In both Detroit and Boston, the decrease in gun-related violent crime preceded the law. Loftin-McDowall view that as evidence the law should not be credited. Pierce-Bowers view the pre-law drop in Boston crime as evidence the law--specifically, publicity about the law--is working.

[2] Millions more may technically "carry" when transporting handguns from target or hunting ranges, places of purchase or repair, and the like. The surveys ask about carrying for protection, rather than actions legally defined as carrying.

[3] A recent Ohio case notes some of the problems of enforcing laws against unlawful carrying or possession of handgun. Rosetta C. Scales was charged with possessing an unregistered handgun. A nurse, working all over the city of Cleveland and having to travel at night, she bought the gun for protection and carried it with her as she drove from place to place. It was registered in another town when she bought it and she was ignorant of East Cleveland's requirement that she register it there when she moved. She could not get a permit to carry the gun concealed under Ohio law and was violating the law by having it in her car. (Were she in Massachusetts, she would similarly have been violating the law on carrying and would similarly have been unable to obtain a license to carry in the Boston area.) The gun was discovered only because she stopped at the scene of a fire to see if she could be of some

assistance, and a policeman who also arrived happened to see the gun on the floor of her car. (Cleveland Plain Dealer, September 25, 1981.)

The case demonstrates both the type of person who carries without a license and the accidental way in which guns are discovered (except where police frisk someone suspicious looking or wanted for a specific crime). Guns may be found by police following auto accidents, during routine checks after a traffic violation, when accidentally exposed, or under similar circumstances. Persons are caught not by good police work but by bad luck.

[4] Although envisioned as creating certainty of punishment, the mandatory penalty, obviously, is only for those convicted. If less than 7% of crime leads to convictions, mandatory penalties cannot raise the certainty above 7%. (Beha: 198 n. 153)

[5] In theory, such a draconian, dragnet approach ought to catch some criminals as well as nonviolent persons and so reduce violent crime. If there is no objection to overkill, culprits will be caught too. Generally, however, the justice of the situation raises concerns. When Theodore Roosevelt dishonorably discharged the troops at Brownsville, he effectively punished the real culprits but also excessively punished those whose only offense was maintaining silence. It is burning a house to roast a pig to catch gun-carrying violent criminals by punishing all gun carriers whether violent criminals or not. Not all procedures which will also affect the violent criminal can be considered in a society which prefers presumptions of innocence and due process of law. While, in theory, a mandatory penalty for carrying without a license ought to catch some criminals, so would a law calling for a mandatory penalty for anyone male, from a broken home, aged 15-30, with a family income under $10,000, who is out after dark. Although such a crime, with a mandatory penalty, might "work" there are few who would support it.

[6] One defense used by an early Bartley-Fox defendant was that his offense was the only offense calling for a mandatory penalty which could be tried by the district court; indeed, that it was the only offense in Massachusetts with a mandatory penalty, and that the offense required no malice, no intention to misuse the gun, no knowledge that the action was a crime. (Beha: 11-14 and notes)

[7] See Rossman (421-22) for a case where only the single armed black was arrested, and sentenced under Bartley-Fox, in a place where numerous whites were similarly and unlawfully armed but not arrested.

[8] New York is staging a publicity campaign similar to that which accompanied the introduction of Bartley-Fox in Massachusetts, just as (1) Massachusetts is taking down its state-border warning signs as creating an unfriendly image and discouraging tourism, (2) the Justice Department is helping to fund both the misinforming signs and a study of the effects of New York's new law rather than longer-term studies of Massachusetts', and despite (3) the fact that New York's law is not truly mandatory. New York will mark the second straight state to adopt a "mandatory" law and publicize it erroneously interpreting the provisions of the law.

[9] Professors Pierce and Bowers may have discovered the secret of achieving academic and public reputations without performing high quality work: research a topic, and reach a conclusion acceptable to the academic and media communities' predispositions. Pierce-Bowers simplified the research for the news media without recognizing data limitations or tentativeness of conclusions which must perforce be included in the formal publication. The news media will not read the caveats, and the academic world will not hold scholars responsible for oversimplifications by reporters.

Another person finding the secret toward acceptance without criticism is Ed Jones (Jones) who has defended the D.C. gun law and shown it to be "effective" if only to scholars who eschew any scholarly scepticism in reviewing such articles (Cook). Jones used 1974 and 1978 as comparison years for a law taking effect in February 1977, ignoring a tremendous drop in both non-gun and gun-related homicide in Washington between 1974 and 1976 (Pierce-Bowers: 135). He concluded that there was an improvement in the handgun homicide situation compared to Baltimore's even though his own data showed the number of handgun homicides dropped 46% in Baltimore and only 36% in Washington.

[10] For example, the FBI's aggravated assault rate for the Middle Atlantic states -- roughly one-fourth of which is normally unarmed -- is lower than the armed (aggravated) assault rate reported by Pierce and Bowers (Rossman: 50, Table I) for six of the ten years used.

[11] Although both Beha (146) and Pierce-Bowers noted the absence of the expected shift to knives, neither sought data on knife substitution either from interviews with inmates or police. Nor did they look for trends in police seizures and/or arrests for carrying knives or other weapons from pre- to post-Bartley-Fox. The studies assumed knives would be substituted if "casual availability" of guns decreased, assumed that decrease had occurred -- both on the street and in areas not covered by Bartley-Fox (Beha: 155) -- and showed no particular interest in investigating the "anomalous" situation. Nor did Pierce and Bowers look at knife-use trends outside of Massachusetts.

[12] Non-felony murder was unusually high in 1973, felony-related murder in 1974. Robbery and aggravated assault were also rising in Massachusetts and Boston disproportionate to the rest of New England during those years. (Beha: 131)

[13] It was suggested that perhaps robbers were waiting to see how Bartley-Fox was being enforced. But a mandatory penalty for carrying should not discourage robbers, who will normally be sentenced to well over a year anyway. As Beha noted (174-75, 199 n. 159), the more serious the offense, the greater the likelihood that one year mandatory will not add to it. Three-fourths of those in state prisons were there for violent crimes, serving six-year sentences with minimum two-year terms. A concurrent mandatory one-year would not affect that. (See Loftin-McDowall.)

Bartley-Fox should, in theory, decrease the number of gun assaults by persons carrying unlawfully, since the one-year penalty did mark a substantial increase in the likely sentence. And Bartley-Fox could more readily be applied to gun-assault charges than to gun-robbery charges. (If only one-fifth of gun-robbery charges could include Bartley-Fox and one-fourth of all gun-related violent crimes, then such charges could probably be brought against 40-50% of gun-related assault charges.) "Whether such penalties should be imposed is a separate question." (Beha: 175)

If robbers were using guns in 1975, waiting to see how Bartley-Fox would affect them before turning to other weapons, it is hard to explain gun-related robbery then dropping in 1976.

[14] Even drug busts where guns are found normally justified possession rather than (Bartley-Fox) carrying charges. (Beha: 52)

[15] The 1975 spurt is due in large part to the fact that 20 sentences that year were either longer than one year or concurrent with longer sentences. (Rossman: 366)

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